2-13-92
Vol. 57 No. 30

federal register

Thursday
February 13, 1992

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

2-13-92
Vol. 57 No. 30
Pages 5227-5364

federal register

Thursday
February 13, 1992

Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** will be furnished by mail to subscribers for $340 per year in paper form; $195 per year in microfiche form; or $37,500 per year for the magnetic tape. Six-month subscriptions are also available at one-half the annual rate. The charge for individual copies in paper or microfiche form is $1.50 for each issue, or $1.50 for each group of pages as actually bound, or $175.00 per magnetic tape. Remit check or money order, made payable to the Superintendent of Documents. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 57 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Magnetic tapes	512–2235
Problems with public subscriptions	512–2303

Single copies/back copies:

Paper or fiche	783–3238
Magnetic tapes	512–2235
Problems with public single copies	512–2457

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5240
Magnetic tapes	512–2235
Problems with Federal agency subscriptions	523–5243

For other telephone numbers, see the Reader Aids section at the end of this issue.

THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: February 28, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.
DIRECTIONS: North on 11th Street from Metro Center to corner of 11th and L Streets

Contents

Federal Register

Vol. 57, No. 30

Thursday, February 13, 1992

Separate Parts In This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 57, No. 30
Thursday, February 13, 1992

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

[INS No. 1453-92]

RIN 1115-AC30

Employment Authorization Document Fee for National of El Salvador Under Temporary Protected Status

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule reduces the fee required for an employment authorization document (EAD) of a National of El Salvador in Temporary Protected Status (TPS) from $60.00 to $20.00. This action is being taken because the status requires that the amount of the fee for registering a national of El Salvador for TPS (including providing the alien with a work permit) shall be sufficient to cover the costs of administration of section 303 of the Immigration Act of 1990 (IMMACT), November 29, 1990, Public Law 101-649, 104 Stat. 4978. The fee reduction provided by this interim rule is calculated to ensure that the combined fees for registration and work authorization collected from nationals of El Salvador in temporary protected status will cover all costs of program administration but will not generate a surplus through June 30, 1992, the termination date of the program.

DATES: This interim rule is effective February 14, 1992. Written comments must be received no later than March 16, 1992.

ADDRESSES: Please submit written comments in triplicate to Director, Policy Directives and Instructions Branch, Records Systems Division, Immigration and Naturalization Service, room 5304, 425 I Street, NW., Washington, DC 20536. Please include INS Number 1453-92 on correspondence to ensure proper handling.

FOR FURTHER INFORMATION CONTACT: Joanna London, General Attorney, Immigration and Naturalization Service, room 7048, Office of the General Counsel, 425 I Street NW., Washington, DC 20536. Telephone: (202) 514-2895.

SUPPLEMENTARY INFORMATION: It is estimated that the present fee, together with the TPS registration fees and employment authorization application fees already collected, will produce a small surplus in program receipts and expenses (including receipts and expenses generated by employment authorization) by June 30, 1992. Because section 303(b)(1)(C)(2) of IMMACT, unlike most statutes authorizing fees for immigration services and benefits, specifically includes employment authorization as an aspect of the "registration" for which a fee shall be charged, INS has taken account of receipts and expenses from employment authorization applications along with other receipts and expenses in determining whether the registration fees are sufficient to cover the costs of administration of this section, as further required by section 303(b)(1)(C)(2). The fee reduction provided by this interim rule is calculated to ensure that fees collected from nationals of El Salvador in temporary protected status will cover all costs of program administration but will not generate a surplus.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

The Service's implementation of this rule as an interim rule, with provision for post-promulgation public comment, is based upon the "good cause" exception found at 5 U.S.C. 553(d). The reasons and the necessity for immediate implementation of this interim rule are that it provides a benefit to the applicants involved, the period for which nationals of El Salvador in TPS may apply for an extension of employment authorization in connection with that status will end on June 30, 1992, and more nationals of El Salvador will benefit from the reduction if the effective date is not delayed.

The information collection requirement contained in this rule has been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The clearance number for this collection is contained in 8 CFR 299.5. Display of Control Number.

List of Subjects in 8 CFR Part 103

Administrative practice and procedures, Archives and records, Authority delegations (Government agencies), Bonding, Fees, Forms, Freedom of Information, Organization and functions (Government agencies), Privacy, Reporting and recordkeeping requirements, Surety bonds.

Accordingly, part 103, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 is revised to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1304; 31 U.S.C. 9701; E. O. 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. In § 103.7, paragraph (b)(1) is amended by revising the entry for Form I-765 to read as follows:

§ 103.7 Fees.

* * * * *

(b)* * *

(1)* * *

* * * * *

Form I-765. For filing application for employment authorization pursuant to 8 CFR 274a.13. Applicants must pay a fee of sixty dollars ($60.00) to be remitted in the form of cash, check, or money order, except that an applicant who is a national of El Salvador in temporary protected status must pay a fee of twenty dollars ($20.00), to be remitted in the form of cash, check, or money order, for the employment authorization for which application is made at the time of the applicant's final reregistration for

temporary protected status on or before June 30, 1992.

* * * * *

Dated: January 29, 1992.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 92-3590 Filed 2-11-92; 11:29 am]

BILLING CODE 4410-10-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 720

Delivery of Servicemembers, Civilians, and Dependents; Service of Process and Subpoenas

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: This rule sets forth amended guidelines and procedures for the delivery of personnel to civilian authorities, service of process, and subpoenas. This rule reflects changes to chapter VI of the Manual of the Judge Advocate General, JAG Instruction 5800.7C.

EFFECTIVE DATE: February 13, 1992.

FOR FURTHER INFORMATION CONTACT: LT Alicia Connolly, JAGC, U.S. Naval Reserve, General Litigation Division (Code 34), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400, (703) 325-9870.

SUPPLEMENTARY INFORMATION: Pursuant to the authority conferred under 5 U.S.C. 301; 10 U.S.C. 133, 939, 5013, and 5148; E.O. 11476; and 32 CFR 700.206 and 700.1201; the Judge Advocate General revises 32 CFR part 720. This revision reflects the redesignation of former chapter XIII as the new chapter VI of the Manual of the Judge Advocate General of the Navy, JAG Instruction 5800.7C. This part has been revised to reflect changes effected by the new chapter VI. It provides direction and guidance for various situations where a military commander is asked to provide or, at a minimum, permit the taking of personnel, property, or records from a military installation by civilian authorities.

This revision was adopted on October 3, 1990. To the limited extent that this revision could be deemed to originate any requirements within the Department of the Navy, it has been determined that such requirements relate entirely to internal Naval management and personnel practices that can be administered more effectively without public participation in the rule-making process. It has therefore been determined that invitation of public comment on this revision would be impracticable and unnecessary and is therefore not required under the provisions of 32 CFR parts 296 and 701. It has also been determined that this final rule is not a "major rule" within the criteria specified in Executive Order 12291, and does not have substantial impact on the public.

Lists of Subjects in 32 CFR Part 720

Service of process, Personnel.

For the reasons set out in the preamble, title 32, part 720 of the Code of Federal Regulations is amended as follows:

PART 720—DELIVERY OF PERSONNEL; SERVICE OF PROCESS AND SUBPOENAS; PRODUCTION OF OFFICIAL RECORDS

1. The authority citation for 32 CFR part 720 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 5031 and 5148; 32 CFR 700.206 and 700.1202.

2. Subparts A and B are revised to read as follows:

Subpart A—Delivery of Personnel

Sec.

Subpart B—Service of Process and Subpoenas Upon Personnel

* * * * *

Subpart A—Delivery of Personnel

§ 720.1 Delivery of persons requested by state authorities in criminal cases.

Subpart A of this part deals with requests by State authorities for the surrender of members or civilians pursuant to arrest warrants or similar process, generally in connection with a criminal prosecution. Responding to such requests by a State for delivery of members or civilian employees involves balancing the Federal interest in preserving sovereign immunity and the productivity, peace, good order, and discipline of the installation against the right of the State to exercise its jurisdiction. Additionally, by regulation, naval and Marine authorities are limited in the extent to which they can directly assist such an act. Commands should respond to such requests as set out below, generally using the minimum authority necessary to preserve the Federal interests without unduly restricting State jurisdiction.

§ 720.2 Delivery when persons are within the territorial limits of the requesting state.

When the delivery of any member or civilian is requested by local civil authorities of a State for an offense punishable under the laws of that jurisdiction, and such person is located at a Navy or Marine Corps installation within the requesting jurisdiction, or aboard a ship within the territorial waters of such jurisdiction, commanding officers are authorized to and normally will deliver such person when a proper warrant is issued. In the case of a member, delivery will only be effected upon compliance with § 720.6, subject to the exceptions in § 720.9. A judge advocate of the Navy or Marine Corps should be consulted before delivery is effected. The rule discussed above applies equally to civilian employees and civilian contractors and their employees when located on a Navy or Marine Corps installation, except that compliance with § 720.6 and consideration of § 720.9 are not required (for purposes of this part, "State" includes the District of Columbia, territories, commonwealths, and all possessions or protectorates of the United States). Commands should normally not become actively involved in civilian law enforcement. When a command has determined that a person is to be delivered in response to a valid

warrant, the following guidance should be considered. If the person to be delivered is a military member, the member may be ordered to report to a location designated by the commanding officer and surrendered to civil authorities under Article 14, UCMJ (10 U.S.C. 814). If the person to be delivered is a civilian, the person may be invited to report to the designated space for delivery. If the civilian refuses, the civilian authorities may be escorted to a place where the civilian is located in order that delivery may be effected. A civilian may be directed to leave a classified area. All should be done with minimum interference to good order and discipline.

§ 720.3 Delivery when persons are beyond territorial limits of the requesting state.

(a) *General.* When State civil authorities request delivery of any member of the Navy or Marine Corps for an alleged crime or offense punishable under the law of the jurisdiction making the request, and such member is not attached to a Navy or Marine Corps activity within the requesting State or a ship within the territorial waters thereof, the following action will be taken. Any officer exercising general court-martial jurisdiction, or officer designated by him, or any commanding officer, after consultation with a judge advocate of the Navy or Marine Corps, is authorized (upon compliance with the provisions of this section and § 720.6, and subject to the exceptions in § 720.9) to deliver such member to make the member amenable to prosecution. The member may be delivered upon formal or informal waiver of extradition in accordance with § 720.3(b), or upon presentation of a fugitive warrant, in which case the procedures of § 720.3(c) apply. The rule discussed above applies equally to civilian employees and civilian contractors and their employees when located on a Department of the Navy installation not within the requesting State, except that compliance with § 720.6 and consideration of § 720.9 are not required.

(b) *Waiver of extradition.* (1) Any member may waive formal extradition. A waiver must be in writing and be witnessed. It must include a statement that the member signing it has received counsel of either a military or civilian attorney prior to executing the waiver, and it must further set forth the name and address of the attorney consulted.

(2) In every case where there is any doubt as to the voluntary nature of a waiver, such doubt shall be resolved against its use and all persons concerned will be advised to comply with the procedures set forth in § 720.3(c).

(3) Executed copies of all waivers will be mailed to the Judge Advocate General immediately after their execution.

(4) When a member declines to waive extradition, the nearest Naval Legal Service Office or Marine Corps staff judge advocate shall be informed and shall confer with the civil authorities as appropriate. The member concerned shall not be transferred or ordered out of the State in which he is then located without the permission of the Secretary of the Navy (Judge Advocate General), unless a fugitive warrant is obtained as set forth in § 720.3(c).

(c) *Fugitive warrants.* (1) A fugitive warrant, as used in this chapter, is a warrant issued by a State court of competent jurisdiction for the arrest of a member. Normally, a State requesting delivery of a member from another State will issue a fugitive warrant to the State where the member is then located.

(2) Upon issuance of a fugitive warrant by the requesting State to the State in which the member is located, the latter State will normally request delivery of the member to local State authorities. Delivery to local State authorities should be arranged by Navy or Marine Corps officers designated in § 720.3(a), upon compliance with the provisions of § 720.6, and subject to the conditions of §§ 720.9 and 720.3(c) (3) and (4).

(3) Upon receipt of a request for delivery of a member under fugitive warrant to State authorities, if the member voluntarily waives extradition, the provisions of § 720.3(b) apply. If the member is delivered to local authorities but refuses to waive extradition in the courts of the State in which he is located.

(4) No delivery of a member by Navy or Marine Corps officers pursuant to a fugitive warrant or waiver of extradition shall be effected without completion of the agreement required by § 720.6 and execution of such agreement either:

(i) By authorities of both the requesting State and the State in which the member is located, or

(ii) By authorities of the State in which the member is located if such authorities, on behalf of the requesting State, accept the full responsibility for returning the number to a command designated by the Department of the Navy.

(d) *Members stationed outside the United States.* When the member sought by State authorities is not located within the United States, see § 720.4.

§ 720.4 Persons stationed outside the United States.

(a) *Persons desired by local U.S. authorities.* When delivery of any member in the Navy or Marine Corps, or any civilian employee or dependent, is desired for trial by state authorities and the individual whose presence is sought is stationed outside the United States, the provisions of subpart D of this part will be followed. In all such cases, the nearest judge advocate of the Navy or Marine Corps shall be consulted before any action is taken.

(b) *Members desired by U.S. Federal authorities.* When delivery of any member of the Navy or Marine Corps is desired for trial in a Federal district court, upon appropriate representation by the Department of Justice to the Secretary of the Navy (Judge Advocate General), the member will be returned to the United States at the expense of the Department of the Navy and held at a military facility convenient to the Department of the Navy and to the Department of Justice. Delivery may be accomplished as set forth in § 720.7, subject to the exceptions in § 720.9.

§ 720.5 Authority of the Judge Advocate General and the General Counsel.

(a) *Authority of the Judge Advocate General.* The Judge Advocate General, the Deputy Judge Advocate General, and the Assistant Judge Advocates General are authorized to act for the Secretary of the Navy in performance of functions under this chapter.

(b) *Authority of the General Counsel.* The authority of the General Counsel of the Navy is prescribed by Navy Regulation (32 CFR 700.203 (a) and (g)) and by appropriate departmental directives and instructions (e.g., SECNAVINST 5430.25D).[1] The principal areas of responsibility of the Office of the General Counsel (OGC) are commerical law, including maritime contract matters; civilian employee law; real property law; and Freedom of Information Act and Privacy Act matters as delineated in 32 CFR part 701. The Office of the General Counsel shares responsibility with the Judge Advocate General for environmental law cases.

(c) *Points of contact.* Commanding officers are advised to contact their local area judge advocates for assistance in referring matters to the appropriate office of the Judge Advocate General or General Counsel.

[1] Copies may be obtained if needed, from the Commanding Officer, Naval Publication and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.

(d) *Coordination with the Commandant of the Marine Corps.* Marine Corps commands shall inform the Commandant of the Marine Corps (CMC) of all matters referred to the Judge Advocate General or the Office of General Counsel. Copies of all correspondence and documents shall also be provided to CMC. The Staff Judge Advocate to the Commandant (CMC (JAR)) shall be advised of all matters referred to the Judge Advocate General. Counsel to the Commandant shall be advised of matters referred to the Office of General Counsel.

§ 720.6 Agreement required prior to delivery to state authorities.

(a) *Delivery under Article 14, UCMJ.* When delivery of any member of the Navy or Marine Corps to the civilian authorities of a State is authorized, the member's commanding officer shall, before making such delivery, obtain from the Governor or other duly authorized officer of such State a written agreement. The State official completing the agreement must show that he is authorized to bind the State to the terms of the agreement. When indicating in the agreement the naval or Marine Corps activity to which the member delivered is to be returned by the State, care should be taken to designate the closest appropriate activity (to the command to which the member is attached) that possesses special court-martial jurisdiction. The Department of the Navy considers this agreement substantially complied with when:

(1) The member is furnished transportation (under escort in cases of delivery in accordance with § 720.12) to a naval or Marine Corps activity as set forth in the agreement;

(2) The member is provided cash to cover incidental expenses en route thereto; and

(3) The Department of the Navy is so informed.

As soon as practicable, a copy of the delivery agreement shall be forwarded to the Judge Advocate General.

(b) *Delivery under Interstate Agreement on Detainers Act.* Special forms are used when delivering prisoners under the Interstate Agreement on Detainers Act. The Act is infrequently used and most requests are pursuant to Article 14, UCMJ. See § 720.12 for a detailed discussion of the Detainers Act.

§ 720.7 Delivery of persons to Federal authorities.

(a) *Authority to deliver.* When Federal law enforcement authorities display proper credentials and Federal warrants for the arrest of members, civilian employees, civilian contractors and their employees, or dependents residing at or located on a Department of the Navy installation, commanding officers are authorized to and should allow the arrest of the individual sought. The exceptions in § 720.9 may be applied to members. A judge advocate of the Navy or Marine Corps should be consulted before delivery is effected.

(b) *Agreement not required of Federal authorities.* The agreement described in § 720.6 is not a condition to the delivery of members to Federal law enforcement authorities. Regardless of whether the member is convicted or acquitted, after final disposition of the case, the member will be returned to the Naval Service (provided that naval authorities desire his return) and the necessary expenses will be paid from an appropriation under the control of the Department of Justice.

§ 720.8 Delivery of persons to foreign authorities.

Except when provided by agreement between the United States and the foreign government concerned, commanding officers are not authorized to deliver members or civilian employees of the Department of the Navy, or their dependents residing at or located on a naval or Marine Corps installation, to foreign authorities. When a request for delivery of these persons is received in a country with which the United States has no agreement or when the commanding officer is in doubt, advice should be sought from the Judge Advocate General. Detailed information concerning the delivery of members, civilian employees, and dependents to foreign authorities when a status of forces agreement is in effect is contained in DoD Directive 5525.1 of 9 April 1985 and SECNAVINST 5820.4F.[2]

§ 720.9 Circumstances in which delivery is refused.

(a) *Disciplinary proceedings pending.* When disciplinary proceedings involving military offenses are pending, commanding officers should obtain legal guidance from a judge advocate of the Navy or Marine Corps prior to delivery of members to Federal or State authorities.

(b) *When delivery may be refused.* Delivery may be refused only in the following limited circumstances:

(1) Where the accused has been retained for prosecution; or

(2) When the commanding officer determines that extraordinary circumstances exist which indicate that delivery should be refused.

(c) *Delivery under Detainers Act.* When the accused is undergoing sentence of a court-martial, see § 720.12.

(d) *Reports required.* When delivery will be refused, the commanding officer shall report the circumstances to the Judge Advocate General by telephone, or by message if telephone is impractical. The initial report shall be confirmed by letter setting forth a full statement of the facts. A copy of the report shall be forwarded to the regional coordinator.

§ 720.10 Members released by civil authorities on bail or on their own recognizance.

A member of the Navy or Marine Corps arrested by Federal or State authorities and released on bail or on his own recognizance has a duty to return to his parent organization. Accordingly, when a member of the Navy or Marine Corps is arrested by Federal or State authorities and returns to his ship or station on bail, or on his own recognizance, the commanding officer, upon verification of the attesting facts, date of trial, and approximate length of time that should be covered by the absence, shall grant liberty or leave to permit appearance for trial, unless this would have a serious negative impact on the command. In the event that liberty or leave is not granted, a judge advocate of the Navy or Marine Corps should immediately be requested to act as liaison with the court. Nothing in this section is to be construed as permitting the member arrested and released to avoid the obligations of bond or recognizance by reason of the member's being in the military service.

§ 720.11 Interviewing servicemembers or civilian employees by federal civilian investigative agencies.

Requests by the Federal Bureau of Investigation, Naval Investigative Service Command, or other Federal civilian investigative agencies to interview members or civilian employees of the Department of the Navy suspected or accused of crimes should be promptly honored. Any refusal of such a request shall be immediately reported to the Judge Advocate General, or the Office of General Counsel, as appropriate, by telephone, or by message if telephone is impractical. When the employee in question is a member of an exclusive bargaining unit, a staff judge advocate or General Counsel attorney will be consulted to determine whether the employee has a right to have a

[2] See footnote 1 of § 720.5(b).

bargaining unit representative present during the interview.

§ 720.12 Request for delivery of members serving sentence of court-martial.

(a) *General.* Article 14, UCMJ (10 U.S.C. 814), provides authority to honor requests for delivery of members serving a sentence of a court-martial. Although seldom utilized, additional authority and mandatory obligation to deliver such members are provided by the Interstate Agreement on Detainers Act (18 U.S.C. app. 9, hereinafter "the Act"), which applies to the Federal agency holding the prisoner. The Department of the Navy, as an agency of the Federal Government, shall comply with the Act. The Act is designed to avoid speedy-trial issues and to aid in rehabilitation efforts by securing a greater degree of certainty about a prisoner's future. The Act provides a way for a prisoner to be tried on charges pending before State courts, either at the request of the State where the charges are pending or the prisoner's request. When refusal of delivery under Article 14, UCMJ, is intended, comply with § 720.9(d).

(b) *Interstate Agreement on Detainers Act.* Upon request under the Act by either State authorities or the prisoner, the cognizant Navy or Marine Corps staff judge advocate, as appropriate, shall communicate with the appropriate State officials, and monitor and ensure that the cognizant commander acts on all such requests. The Act provides that court-martial sentences continue to run during temporary custody. This section does not cover requests between Federal authorities. The procedure set forth in § 720.12(c) shall be applied in such cases.

(1) *State request.* State officials may request delivery of prisoners in military custody under section 2, Article IV, of the Act. Where a detainer has been lodged against the prisoner, and the prisoner is serving a sentence (regardless of whether an appeal is in process), delivery is mandatory unless the request is disapproved by the Director of the Bureau of Prisons, Washington, DC, 20537 as the designee of the Attorney General for this purpose. 28 CFR 0.96(n). There has been no further delegation to military authority. The prisoner should be informed that he may request the Director of the Bureau of Prisons, Washington, DC 20537, within 30 days after such request is received, to deny the request. Upon the expiration of such 30-day period or upon the Director of the Bureau of Prisons' denial of the prisoner's request, whichever occurs first, the prisoner shall be delivered to the requesting authority.

(2) *Prisoner request.* The obligation to grant temporary custody under the Act also applies to prisoners' requests to be delivered to State authority. Section 2, Article III(c) of the Act requires the custodial official to inform the prisoner of the existence of any detainer and of the prisoner's right to request disposition. The prisoner's request is directed to the custodial official who must forward it to the appropriate prosecuting official and court, with a certificate of prisoner status as provided by Article III of the Act.

(c) *Article 14, UCMJ.* When a request for custody does not invoke the Interstate Agreement on Detainers Act, delivery of custody shall be governed by Article 14, UCMJ, and §§ 720.2 through 720.9. The request shall be honored unless, in the exercise of discretion, there is an overriding reason for retaining the accused in military custody, e.g., additional courts-martial are to be convened or the delivery would severely prejudice the prisoner's appellate rights. Execution of the agreement discussed in § 720.6 is a condition precedent to delivery to State authorities. It is not required before delivery to Federal authorities. See § 720.7. Unlike delivery under the Act, delivery of custody pursuant to Article 14, UCMJ, interrupts execution of the court-martial sentence.

§ 720.13 Request for delivery of members serving sentence of a state court.

(a) *General.* Ordinarily, members serving protracted sentences resulting from a State criminal conviction will be processed for administrative discharge by reason of misconduct. It may, however, be in the best interest of the Naval Service to retain a member charged with a serious offense, subject to military jurisdiction, to try the member by court-martial. The Navy may obtain temporary custody of incarcerated members for prosecution with a request to the State under the Interstate Agreement on Detainers Act. 18 U.S.C. app. 9. The Department of the Navy may use the Act in the same manner in which State authorities may request members purusant to § 720.12.

(b) *Interstate Agreement on Detainers Act.* Military authorities may use the Act to obtain temporary custody of a member incarcerated in a State institution, pursuant to conviction by a State court, to resolve criminal charges against the member before a court-martial.

(1) *Detainer.* If a command requests temporary custody under the Act, the commanding officer of the cognizant naval legal service office or the Marine Corps staff judge advocate, shall file a detainer with the warden, commissioner of corrections, or other State official having custody of the member. The detainer shall identify the member with particularity, enumerate the military charges pending, and request the command be notified in advance of any intention to release the member from confinement.

(2) *Request for delivery.* As soon as practical after filing the detainer, the commanding officer of the cognizant naval legal service office or the Marine Corps staff judge advocate, shall prepare a written request for temporary custody of the member addressed to the State official charged with administration of the State penal system. The request shall designate the person(s) to whom the member is to be delivered and shall be transmitted via the military judge to whom the member's case has been assigned. If the request is properly prepared, the military judge shall approve, record, and transmit the request to the addressee official. The Act provides the State with a 30-day period after receipt of the request before the request is to be honored. Within that period of time, the governor of the State may disapprove the request, either unilaterally or upon the prisoner's request. If the governor disapproves the request, the command should coordinate any further action with the Judge Advocate General.

(3) *Responsibilities.* The cognizant command shall ensure that the responsibilities of a receiving jurisdiction, delineated in section 2, Article IV of the Act, are discharged. In particular, the Act requires that the receiving jurisdiction:

(i) Commence the prisoner's trial within 120 days of the prisoner's arrival, unless the court, for good cause shown during an Article 39(a), UCMJ, session, grants a continuance necessary or reasonable to promote the ends of justice;

(ii) Hold the prisoner in a suitable jail or other facility regularly used for persons awaiting prosecution, except for periods during which the prisoner attends court or travels to or from any place at which his presence may be required;

(iii) Return the prisoner to the sending jurisdiction at the earliest practical time, but not before the charges that underlie the request have been resolved (prematurely returning the prisoner will result in dismissal of the charges); and

(iv) Pay all costs of transporting, caring for, keeping, and returning the prisoner to the sending jurisdiction, unless the command and the State agree

on some other allocation of the costs or responsibilities.

§§ 720.14–720.19 [Reserved]

Subpart B—Service of Process and Subpoenas Upon Personnel

§ 720.20 Service of process upon personnel.

(a) *General.* Commanding officers afloat and ashore may permit service of process of Federal or State courts upon members, civilian employees, dependents, or contractors residing at or located on a naval installation, if located within their commands. Service will not be made within the command without the commanding officer's consent. The intent of this provision is to protect against interference with mission accomplishment and to preserve good order and discipline, while not unnecessarily impeding the court's work. Where practical, the commanding officer shall require that the process be served in his presence, or in the presence of a designated officer. In all cases, individuals will be advised to seek legal counsel, either from a legal assistance attorney or from personal counsel for service in personal matters, and from Government counsel for service in official matters. The commanding officer is not required to act as a process server. The action required depends in part on the status of the individual requested and which State issued the process.

(1) *In-State process.* When a process server from a State or Federal court from the jurisdiction where the naval station is located requests permission to serve process aboard an installation, the command ordinarily should not prevent service of process so long as delivery is made in accordance with reasonable command regulations and is consistent with good order and discipline. Withholding service may be justified only in the rare case when the individual sought is located in an area under exclusive Federal jurisdiction not subject to any reservation by the State of the right to serve process. Questions on the extent of jurisdiction should be referred to the staff judge advocate, command counsel, or local naval legal service office. If service is permitted, an appropriate location should be designated (for example, the command legal office) where the process server and the member or employee can meet privately in order that process may be served away from the workplace. A member may be directed to report to the designated location. A civilian may be invited to the designated location. If the civilian does not cooperate, the process server may be escorted to the location of the civilian in order that process may be served. A civilian may be required to leave a classified area in order that the process server may have access to the civilian. If unusual circumstances require that the command not permit service, see § 720.20(e).

(2) *Out-of-State process.* In those cases where the process is to be served by authority of a jurisdiction other than that where the command is located, the person named is not required to accept process. Accordingly, the process server from the out-of-State jurisdiction need not be brought face-to-face with the person named in the process. Rather, the process server should report to the designated command location while the person named is contacted, apprised of the situation, and advised that he may accept service, but also may refuse. In the event that the person named refuses service, the process server should be so notified. If service of process is attempted from out-of-State by mail and refused, the refusal should be noted and the documents returned to the sender. Questions should be referred to the staff judge advocate, command counsel, or the local naval legal service office.

(b) *Service of process arising from official duties.* (1) Whenever a member or civilian employee of the Department of the Navy is served with process because of his official position, the Judge Advocate General or the Associate General Counsel (Litigation), as appropriate, shall be notified by telephone, or by message if telephone is impractical. Notification shall be confirmed by a letter report by the nearest appropriate command. The letter report shall include the detailed facts which give rise to the action.

(2) Any member or civilian employee served with Federal or State court civil or criminal process or pleadings (including traffic tickets) arising from actions performed in the course of official duties shall immediately deliver all such process and pleadings to the commanding officer. The commanding officer shall ascertain the pertinent facts and notify the Judge Advocate General or Associate General Counsel (Litigation), as appropriate, by telephone or by message if telephone is impractical, of the service and immediately forward the pleadings and process to the relevant office. The member or civilian employee will be advised of the right to remove civil or criminal proceedings from State to Federal court under 28 U.S.C. 1442, 1442a, rights under the Federal Employees Liability Reform and Tort Compensation Act (28 U.S.C. 2679b), if applicable, and the right of a Federal employee to request representation by Department of Justice attorneys in Federal (civil) or State (civil or criminal) proceedings and in congressional proceedings in which that person is sued in an individual capacity, as delineated in 28 CFR 50.15. Requests for representation shall be addressed to the Judge Advocate General or Associate General Counsel (Litigation), as appropriate, and shall be endorsed by the commanding officer, who shall provide all necessary data relating to the questions of whether the person was acting within the course of official duty or scope of employment at the time of the incident out of which the suit arose.

(3) If the service of process involves a potential claim against the Government, see 32 CFR 750.12(a), 750.12(b), and 750.24. The right to remove to Federal Court under 28 U.S.C. 1442 and 1442a must be considered where the outcome of the State court action may influence a claim or potential claim against the United States. Questions should be directed to the Judge Advocate General or the Associate General Counsel (Litigation).

(c) *Service of process of foreign courts.* (1) Usually, the amenability of members, civilian employees, and their dependents stationed in a foreign country, to the service of process from courts of the host country will have been settled by an agreement between the United States and the foreign country concerned (for example, in the countries of the signatory parties, amenability to service of civil process is governed by paragraphs 5(g) and 9 of Article VIII of the NATO Status of Forces Agreement, TIAS 2846). When service of process on a person described above is attempted within the command in a country in which the United States has no agreement on this subject, advice should be sought from the Judge Advocate General or the Associate General Counsel (Litigation), as appropriate. When service of process is upon the United States Government or one of its agencies or instrumentalities as the named defendant, the doctrine of sovereign immunity may allow the service of process to be returned to the court through diplomatic channels. Service of process directed to an official of the United States, on the other hand, must always be processed in accordance with the applicable international agreement or treaty, regardless of whether the suit involves acts performed in the course of official duties. The Judge Advocate General or the Associate General Counsel (Litigation), as appropriate, will arrange

through the Department of Justice for defense of the suit against the United States or an official acting within the scope of official duties, or make other arrangements, and will issue instructions.

(2) Usually, the persons described in § 720.20(c)(1) are not required to accept service of process outside the geographic limits of the jurisdiction of the court from which the process issued. In such cases, acceptance of the service is not compulsory, but service may be voluntarily accepted in accordance with § 720.20(b). In exceptional cases when the United States has agreed that service of process will be accepted by such persons when located outside the geographic limits of the jurisdiction of the court from which the process issued, the provisions of the agreement and of § 720.20(a) will govern.

(3) Under the laws of some countries (such as Sweden), service of process is effected by the document, in original or certified copy, being handed to the person for whom the service is intended. Service is considered to have taken place even if the person refuses to accept the legal documents. Therefore, if a commanding officer or other officer in the military service personally hands, or attempts to hand, that person the document, service is considered to have been effected, permitting the court to proceed to judgment. Upon receipt of foreign process with a request that it be served upon a person described in § 720.20(c)(1), a commanding officer shall notify the person of the fact that a particular foreign court is attempting to serve process and also inform that person that the process may be ignored or received. If the person to be served chooses to ignore the service, the commanding officer will return the document to the embassy or consulate of the foreign country with the notation that the commanding officer had the document, that the person chose to ignore it, and that no physical offer of service had been made. The commanding officer will advise the Judge Advocate General or the Associate General Counsel (Litigation), as appropriate, of all requests for service of process from a foreign court and the details thereof.

(d) *Leave or liberty to be granted persons served with process.* When members or civilian employees are either served with process, or voluntarily accept service of process, in cases where the United States is not a party to the litigation, the commanding officer normally will grant leave or liberty to the person served to permit compliance with the process, unless to do so would have an adverse impact on naval operations. When a member or civilian employee is a witness for a nongovernmental party because of performance of official duties, the commanding officer may issue the person concerned permissive orders authorizing attendance at the trail at no expense to the Government. The provisions of 32 CFR part 725 must also be considered in such cases. Members or civilian employees may accept allowances and mileage tendered; however, any fees tendered for testimony must be paid to the Department of the Navy unless the member or employee is on authorized leave while attending the judicial proceeding. When it would be in the best interests of the United States Government (for example, in State criminal trails), travel funds may be used to provide members and civilian employees as witnesses as provided in the Joint Federal Travel Regulations. Responsibility for the payment of the member's mileage and allowances will be determined pursuant to the Joint Federal Travel Regulations, Volume 1, paragraph M6300, subsections 1–3.[3]

(e) *Report where service not allowed.* Where service of process is not permitted, or where the member or civilian employee is not given leave, liberty, or orders to attend a judicial proceeding, a report of such refusal and the reasons therefor shall be made by telephone, or message if telephone is impractical, to the Judge Advocate General or the Associate General Counsel (Litigation), as appropriate.

§ 720.21 Members or civilian employees subpoenaed as witnesses in state courts.

Where members or civilian employees are subpoenaed to appear as witnesses in State courts, and are served as described in §§ 720.20, 720.20(d) applies. If these persons are requested to appear as witnesses in State courts when the interests of the Federal Government are involved (e.g., Medical Care Recovery Act cases), follow the procedures described in § 720.22. If State authorities are attempting to obtain the presence of a member or a civilian employee as a witness in a civil or criminal case, and such person is unavailable because of an overseas assignment, the command should immediately contact the Judge Advocate General, or the Associate General Counsel (Litigation), as appropriate.

[3] See footnote 1 of § 720.5(b).

§ 720.22 Members or civilian employees subpoenaed as witnesses in Federal courts.

(a) *Witnesses on behalf of Federal Government.* When members or civilian employees of the Department of the Navy are required to appear as witnesses in a Federal Court to testify on behalf of the Federal Government in cases involving Department of the Navy activities, the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, will issue temporary additional duty orders to that person. The charges for such orders will be borne by the activity to which the required witness is attached. Payment to witnesses will be as provided by the Joint Federal Travel Regulations and U.S. Navy travel instructions. If the required witness is to appear in a case in which the activities of the Department of the Navy are not involved, the Department of the Navy will be reimbursed in accordance with the procedures outlined in the Navy Comptroller Manual, section 046268.

(b) *Witnesses on behalf of nongovernmental parties*—(1) *Criminal actions.* When members or civilian employees are served with a subpoena to appear as a witness for a defendant in a criminal action and the fees and mileage required by rule 17(d) of the Federal Rules of Criminal Procedure are tendered, the commanding officer may issue the person subpoenaed permissive orders authorizing attendance at the trial at no expense to the Government, unless the person's absence would have an adverse impact on naval operations. In such a case, a full report of the circumstances will be made to the Judge Advocate General or, in the case of civilian employees, to the Associate General Counsel (Litigation). In those cases where fees and mileage are not tendered as required by rule 17(d) of the Federal Rules of Criminal Procedure, but the person subpoenaed still desires to attend, the commanding officer also may issue permissive orders at no cost to the Government. Such persons, however, should be advised that an agreement as to reimbursement for any expenses incident to travel, lodging, and subsistence should be effected with the party desiring their attendance and that no reimnbursement should be expected from the Government.

(2) *Civil actions.* When members or civilian employees are served with a subpoena to appear as a witness on the behalf of a nongovernmental party in a civil action brought in a Federal court, the provisions of § 720.20 apply.

§ 720.23 Naval prisoners as witnesses or parties in civilian courts.

(a) *Criminal actions.* When Federal or State authorities desire the attendance of a naval prisoner as a witness in a criminal case, they should submit a written request for such person's attendance to the Judge Advocate General. The civilian authority should include the following averments in its request:

(1) That the evidence to be derived from the prisoner's testimony is unavailable from any other source:

(2) That the civilian authority will provide adequate security arrangements for the prisoner and assume responsibility for the prisoner while he is in its custody; and

(3) that the civilian authority will assume all costs of transporting the prisoner from the brig, of maintaining that prisoner while in civilian custody, and of returning the prisoner to the brig from which he was removed.

The civilian authority should also include in its request an estimate of the length of time the prisoner's services will be required, and should specify the mode of transport by which it intends to return the prisoner. Upon receipt of such a request, authority by the Judge Advocate General will be given, in a proper case, for the production of the requested naval prisoner in court without resort to a writ of habeas corpus ad testificandum (a writ which requires the production of a prisoner to testify before a court of competent jurisdiction).

(b) *Civil actions.* The Department of the Navy will not authorize the attendance of a naval prisoner in a Federal or State court, either as a party or as a witness, in private litigation pending before such a court. The deposition of a naval prisoner may be taken in such a case, subject to reasonable conditions or limitations imposed by the command concerned.

§ 720.24 Interviews and depositions in connection with civil litigation in matters pertaining to official duties.

Requests to interview, depose, or call as witnesses, current or former members or civilian employees of the Department of the Navy, regarding information obtained in the course of their official duties, including expert testimony related thereto, shall be processed in accordance with 32 CFR Part 725.

§ 720.25 Repossession of personal property.

Repossession of personal property, located on a Navy or Marine Corps installation, belonging to a member or to any dependent residing at or located on a Department of the Navy installation, may be permitted in the discretion of the commanding officer of the installation where the property is located, subject to the following. The documents purporting to authorize repossession and the procedures for repossessing the property must comply with State law. Prior to permitting physical repossession of any property, the commanding officer shall cause an informal inquiry into the circumstances and then determine whether to allow the repossession. If repossession is to be allowed, the person whose property is to be repossessed should be asked if he wishes to relinquish the property voluntarily. Repossession must be carried out in a manner prescribed by the commanding officer. In the case of property owned by civilian employees of the Department of the Navy or civilian contractors or their employees or dependents, the commanding officer should direct that the disputed property be removed from the installation until the commanding officer is satisfied that the dispute is resolved.

§§ 720.26–720.29 [Reserved]

Dated: January 31, 1992.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 92–3465 Filed 2–12–92; 8:45 am]

BILLING CODE 3810–AE–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Parts 701, 705, 706, 731, 749, and 752

[AIDAR Notice 92–2]

Miscellaneous Amendments

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The Agency for International Development Acquisition Regulation (AIDAR) is being amended to make miscellaneous editorial and administrative changes.

EFFECTIVE DATE: March 16, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Kelly, FA/PPE, room 1600I, SA–14, Agency for International Development, Washington, DC 20523–1435, Telephone (703) 875–1534.

SUPPLEMENTARY INFORMATION: A brief summary of the changes being made to the AIDAR follows:

Section 701.105 which lists AIDAR information collections together with their OMB approval number, approval expiration date and burden estimate is being re-formatted, and one additional previously approved item is being added. This is a non-substantive editorial change.

Section 705.202(b)(2) is being removed as redundant. The exemption in 705.202(b)(1) is considered to cover the same subject matter. This is considered a non-substantive editorial change.

Section 706.302–70(b)(2) (the exception to full and open competition requirements based on impairment of foreign aid programs) has been amended to increase the exception for awards by an overseas contracting activity from $100,000 to $250,000. This change reflects an adjustment for inflation and an increase which will help reduce the administrative burden on AID's contracting officers overseas without significantly affecting contracting opportunities by U.S. small business. Based on dollar figures developed by the GAO and reports submitted to the AID Competition Advocate, increasing the exception from $100,000 to $250,000 will exempt approximately another 6% of the actions awarded overseas, but will still leave approximately 93% of the dollars spent on contracts overseas outside of this exemption. This proposed change was coordinated with the Small Business Administration, which concurred with the proposed change and concluded that increasing the exception from $100,000 to $250,000 would not be detrimental to small business interests.

Various sections in part 731 (cost principles) have been revised/amended to make them briefer, eliminate repetition, and make them clearer. All of the changes are considered editorial and non-substantive.

Section 749.111–71(a) has required that termination settlements over $50,000 be reviewed by the AID Settlement Review Board. Based on experience with proposed settlements, considering the levels of contracting authority within AID, and allowing for inflation, the Agency has decided to increase the review threshold from $50,000 to $100,000. This is considered an internal administrative change with no effect outside of the Agency.

The introductory statements to AID's contract clauses (sections 752.200 and 752.7000) are being amended to incorporate reference to AIDAR Appendix J concerning personal services contracts with cooperating country and third country nationals, in addition to the existing reference to Appendix D concerning U.S. personal services contracts. This is a non-substantive editorial change.

In section 752.7015, the address for contractor mail being sent via diplomatic pouch is being updated. This is an editorial change.

A new contract clause requiring that AID be acknowledged in publications funded under AID contracts, and that such acknowledgements include a disclaimer that opinions expressed do not necessarily represent the views of AID is being added as section 752.7034. This is considered an administrative change without significant impact on our contractors.

A new contract clause encouraging contractors to publicly announce receipt of the contract, and of subsequent progress or significant accomplishments is being added as section 752.7035. This is an optional clause for use when the technical office believes it to be appropriate. This is considered an administrative change without significant impact on our contractors.

The changes being made by this Notice are editorial and administrative and are not considered significant rules under FAR section 1.301 or subpart 1.5, nor major rules as defined in Executive Order 12291. This Notice will not have an impact on a substantial number of small entities, nor does it establish any information collection as contemplated by the Regulatory Flexibility Act and Paperwork Reduction Act. Because of the nature and subject matter of this Notice, use of the proposed rule/public comment approach was not considered necessary. We decided to issue as a final rule; however, we welcome public comment on the material covered by this Notice or any other part of the AIDAR at any time. Comments or questions may be addressed as specified in the "**FOR FURTHER INFORMATION CONTACT**" section of the preamble.

List of Subjects in 48 CFR Parts 701, 705, 706, 731, 749, and 752

Government procurement.

Accordingly, for the reasons set out in the Preamble, 48 CFR chapter 7 is amended as follows:

1. The authority citation for parts 701, 705, 706, 731, 749, and 752 continues to read as follows:

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR 1979 Comp., p. 435.

PART 701—FEDERAL ACQUISITION REGULATION SYSTEM

Subpart 701.1—Purpose, Authority, Issuance

2. Paragraph (a) of section 701.105 is revised to read as follows:

701.105 OMB approval under the Paperwork Reduction Act.

(a) The following information collection and recordkeeping requirements established by AID have been approved by OMB, and assigned an OMB control number and approval/expiration dates as specified below:

AIDAR segment	OMB control no.	Expiration date	Burden hours per report
733.7003(c)	0412–0520	Oct. 31, 1993.	40
752.209–70	0412–0520	do	4
752.219–8	0412–0520	do	1
752.245–70	0412–0520	do	1
752.245–71	0412–0520	do	1
752.7001(a)	0412–0520	do	.5
752.7001(b)	0412–0520	do	.5
752.7002(j)	0412–0520	do	1
752.7003	0412–0520	do	8
752.7004(b)(4)	0412–0520	do	.5
752.7032	0412–0520	do	2
752.7033	0412–0536	May 31, 1992.	4

* * * * *

PART 705—PUBLICIZING CONTRACT ACTIONS

Subpart 705.2—Synopsis of Proposed Contract Actions

3. Paragraph (b) of section 705.202 is revised to read as follows:

705.202 Exceptions.

* * * * *

(b) The head of the Agency for International Development has determined after consultation with the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration, that advance notice is not appropriate or reasonable for contract actions described in 706.302–70(b)(1) through (b)(3).

* * * * *

PART 706—COMPETITION REQUIREMENTS

Subpart 706.3—Other Than Full and Open Competition

706.302–70 [Amended]

4. Paragraph (b)(2) of section 706.302–70, impairment of foreign aid programs, is amended by removing "$100,000" and adding "$250,000".

PART 731—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 731.2—Contracts With Commercial Organizations

5. Section 731.205–6 is revised as follows:

731.205–6 Compensation for personal services.

(a) *General.* When establishing the workweek for employees overseas the contractor will take local and AID Mission practice into account and will insure that the workweek is compatible with that of those AID Mission and Cooperating Country employees with whom the contractor will be working.

(b) and (c) [Reserved].

(d) *Salaries and wages.* It is AID policy that if an employee's base salary

plus overseas recruitment incentive, if any (see AIDAR 731.205–70), exceeds the maximum hourly, daily, or annual rate for a Foreign Service Officer Class FS–1, it will be allowable only if approved in writing by the Contracting Officer. (AID procedures for review/approval of salaries in excess of the FS–1 rate are set forth in Appendix G to the AID Acquisition Regulation.) AID policies on compensation of third country national or cooperating country national employees are set forth in AIDAR 722.170.

(e) through (l) [Reserved].

(m) *Fringe benefits.* AID's policies on certain fringe benefits related to overseas service, including but not limited to leave, holidays, differentials and allowances, etc. are set forth in the appropriate contract clauses in AIDAR subpart 752.70.

6. Section 731.205–46 is revised as follows:

731.205–46 Travel costs.

It is AID policy to require prior written approval of international travel by the Contacting Officer. See AIDAR 752.7032 for specific requirements and procedures.

7. A new section 731.205–70 is added to read as follows:

731.205–70 Overseas recruitment incentive.

(Note: the term "employee" as used in this section means an employee who is a U.S. citizen or a U.S. resident alien.)

(a) If a contractor employee serving overseas under a contract does not qualify for the exemption for overseas income provided under section 911 of the U.S. Internal Revenue Code (26 U.S.C. 911), such employee is eligible to receive an overseas recruitment incentive (ORI), to the extent the ORI: Is authorized by the contractor's normal policy and practice; is deemed necessary by the contractor to recruit and retain qualified employees for overseas services; and does not exceed 10% of the base salary of the employee from date of arrival at overseas post to begin assignment to date of departure from post at the end of assignment. ORI is to be paid as a single payment at the end of the employee tour of duty overseas. The contractor shall take all reasonable and prudent steps to ensure that ORI is not paid to any employee who has received the IRS section 911 exemption.

(b) In the event that an employee subsequently receives a section 911 exclusion for any part of the base salary upon which this supplement has been paid, such supplement or appropriate portion thereof shall be reimbursed by the contractor to AID with interest. The interest shall be calculated at the average U.S. Treasury rate in effect for the period that the contractor or his employee had the funds. Neither the contractor's nor the subcontractor's inability to collect refunds from eligible employees shall be used as a basis to excuse subsequent refunds by the contractor to AID.

Subpart 731.3—Contracts With Educational Institutions

8. Section 731.371 is revised as follows:

731.371 Compensation for personal services.

(a) *General.* When establishing the workweek for employees overseas the contractor will take local and AID Mission practice into account and will ensure that the workweek is compatible with that of those AID Mission and Cooperating Country employees with whom the contractor will be working.

(b) *Salaries and wages.* (1) It is AID policy that if an employee's base salary plus overseas recruitment incentive, if any (see AIDAR 731.205–70), exceeds the maximum hourly, daily, or annual rate for a Foreign Service Officer Class FS–1, it will be allowable only if approved in writing by the Contracting Officer. (AID procedures for review/approval of salaries in excess of the FS–1 rate are set forth in Appendix G to the AID Acquisition Regulation.)

(2) In considering consulting income as a factor when determining allowable salary for service under a contract:

(i) For faculty members working under annual appointments, salary for service under the contract may include the employee's on-campus salary plus "consulting income" (that is, income from employment other than the employee's regular on-campus appointment, excluding business or other activities not connected with the employee's profession) earned during the year preceding employment under the contract.

(ii) For faculty members working under academic year appointments, salary for service under the contract may include the employee's on-campus academic year salary plus "consulting income" as defined above earned during the year proceeding employment under the contract, or salary for service under the contract may be derived by annualizing the academic year salary (in which case "consulting income" may not be included).

(3) AID policies and compensation of third country national or cooperating country national employees are set forth in AIDAR 722.170.

9. A new section 731.372 is added to read as follows:

731.372 Fringe benefits.

AID's policies on certain fringe benefits related to overseas service, including but not limited to leave, holidays, differentials and allowances, etc. are set forth in the appropriate contract clauses in AIDAR 752.70.

10. A new section 731.373 is added to read as follows:

731.373 Overseas recruitment incentive.

AID's policies regarding overseas recruitment incentives are set forth in AIDAR 731.205–70. These policies are also applicable to contracts with an educational institution.

Subpart 731.7—Contracts With Nonprofit Organizations

11. Section 731.772 is revised as follows:

731.772 Compensation for personal services.

The policies set for in AIDAR 731.205–6 are also applicable to contracts with a nonprofit organization.

12. A new section 731.774 is added to read as follows:

731.774 Overseas recruitment incentive.

AID's policies regarding overseas recruitment incentives are set forth in AIDAR 731.205–70. These policies are also applicable to contracts with a nonprofit organization.

PART 749—TERMINATION OF CONTRACTS

Subpart 749.1—General Policies

749.111–71 [Amended]

13. Paragraphs (a)(1) and (a)(2)(i) and (ii) of § 749.111–71, Required review and approval, are amended by removing "$50,000" and adding "$100,000".

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 752.2—Texts of Provisions and Clauses

752.200 [Amended]

14. Section 752.200, Scope of subpart, is amended by adding the following to the last sentence of the section: "and AIDAR Appendix J—Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad."

Subpart 752.70—Texts of AID Contract Clauses

752.7000 [Amended]

15. Section 752.7000, Scope of subpart, is amended by adding the following to the last sentence of the section: "and AIDAR Appendix J—Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad."

752.7015 [Amended]

16. Section 752.7015, Use of Pouch Facilities, is amended by revising the contract clause date from "(APR 1984)" to "(JUNE 1991)", and by revising paragraph (a)(4) of the clause as follows:

752.7015 Use of Pouch Facilities.

* * * * *

(a) * * *

(4) Official mail as authorized by paragraph (c)(1) of this clause should be addressed as follows: Individual or Organization Name, followed by the symbol "(C)", City Name of Post, Agency for International Development, Washington, DC 20523–0001.

* * * * *

17. A new section 752.7034 is added to read as follows:

752.7034 Acknowledgement and disclaimer.

For use in any AID contract which funds or partially funds publications, videos, or other information/media products.

Acknowledgement and Disclaimer (Dec 1991)

(a) AID shall be prominently acknowledged in all publications, videos or other information/media products funded or partially funded through this contract, and the product shall state that the views expressed by the author(s) do not necessarily reflect those of AID. Acknowledgements should identify the sponsoring AID Office and Bureau or Mission as well as the U.S. Agency for International Development substantially as follows:

"This (publication, video or other information/media product (specify)) was made possible through support provided by the Office of _____, Bureau for _____, U.S. Agency for International Development, under the terms of Contract No. _____. The opinions expressed herein are those of the author(s) and do not necessarily reflect the views of the U.S. Agency for International Development."

(b) Unless the contractor is instructed otherwise by the cognizant technical office, publications, videos or other information/media products funded under this contract and intended for general readership or other general use will be marked with the AID logo and/or U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT appearing either at the top or at the bottom of the front cover or, if more suitable, on the first inside title page for printed products, and in equivalent/appropriate location in videos or other information/media products. Logos and markings of co-sponsors or authorizing institutions should be similarly located and of similar size and appearance.

(End of Clause.)

18. A new section 752.7035 is added to read as follows:

752.7035 Public Notices.

The following clause is for use when the cognizant technical office determines that the contract is of public interest, and that both the public and the Government would benefit from public notices concerning the contract, and requests that the Contracting Officer include the clause in the contract.

Public Notices (Dec 1991)

It is AID's policy to inform the public as fully as possible of its programs and activities. The contractor is encouraged to give public notice of the receipt of this contract and, from time to time, to announce progress and accomplishments. Press releases or other public notices should include a statement substantially as follows: "The U.S. Agency for International Development administers the U.S. foreign assistance program providing economic and humanitarian assistance in more than 80 countries worldwide." The contractor may call on AID's Office of External Affairs for advice regarding public Notices. The contractor is requested to provide copies of notices or announcements to the cognizant technical officer and to AID's Office of External Affairs as far in advance of release as possible.

(End of Clause.)

Dated: January 15, 1992.

John F. Owens,

Procurement Executive.

[FR Doc. 92–3235 Filed 2–12–92; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1121

[Ex Parte No. 400 (Sub-No. 3)]

Rail Exemption Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission modifies 49 CFR 1121.4(g) to permit the Commission to set different time limits for filing petitions to stay and petitions to reopen when circumstances warrant. This technical amendment to its reissued exemption procedures in 49 CFR part 1121 is not intended to have any substantive effect on any person or proceeding.

EFFECTIVE DATE: This amendment is effective February 12, 1992.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. (TDD for hearing impaired: (202) 927–5721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 927–5721.)

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

This action will have no significant effect on a substantial number of small entities.

List of Subjects in 49 CFR Part 1121

Administrative practice and procedure, Railroads.

Decided: February 6, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners, Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1121 of the Code of Federal Regulations is amended as follows:

PART 1121—RAIL EXEMPTION PROCEDURES

1. The authority citation for part 1121 continues to read as follows:

Authority: 49 U.S.C. 10505; 5 U.S.C. 553.

2. In § 1121.4, paragraph (g) is revised to read as follows:

§ 1121.4 Procedures.

* * * * *

(g) An exemption generally will be effective 30 days from the service date of the decision granting the exemption. Unless otherwise provided in the decision, petitions to stay must be filed within 10 days of the service date, and petitions to reopen under 49 CFR part 1115 or 1152.25(e) must be filed within 20 days of the service date. A petition to reopen may include comments on the proposal, requests for employee protection, or other conditions.

* * * * *

[FR Doc. 92–3493 Filed 2–12–92; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 657

[Docket No. 920241-2041]

Atlantic Salmon Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule, technical amendment.

SUMMARY: NMFS issues this final rule implementing a technical amendment to change the address of the Regional Director, Northeast Region of the National Marine Fisheries Service in the regulations for the Atlantic Salmon Fishery.

EFFECTIVE DATE: February 13, 1992.

FOR FURTHER INFORMATION CONTACT: Austin R. Magill or David G. Deuel, NMFS, Recreational and Interjurisdictional Fisheries Division, 1335 East-West Highway, Silver Spring, MD 20910, telephone 301-713-2347.

SUPPLEMENTARY INFORMATION: Since regulations implementing the Fishery Management Plan for Atlantic Salmon were published, the Northeast Regional Office, NMFS, moved to new facilities at One Blackburn Drive, Gloucester, Massachusetts. This final rule, technical amendment, amends only the definition of "Regional Director" at 50 CFR 657.2 to reflect the new mailing address for the Director, Northeast Region, NMFS.

Under 5 U.S.C. 553(b)(B), notice and public comment on this final rule, technical amendment, are unnecessary because the final rule merely changes the mailing address for the Regional Director. Because no change in fishing practices is required as a result of this final rule, delaying its effectiveness for 30 days is also unnecessary.

Because this rule is being issued without prior comment, is not subject to the Regulatory Flexibility Act requirement for a regulatory flexibility analysis and none has been prepared.

This rule makes a minor technical change to a rule that has been determined not to be a major rule under Executive Order 12291, does not contain policies with federalism implications requiring assessment under Executive Order 12612, and does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act. There is no change in the regulatory impacts previously reviewed and analyzed.

List of Subjects in 50 CFR Part 657

Fisheries, Fishing.

Dated: February 7, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 657 is amended as follows:

PART 657—ATLANTIC SALMON FISHERY

1. The authority citation for part 657 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 657.2, the definition of "Regional Director" is revised to read as follows:

§ 657.2 Definitions.

* * * * *

Regional Director means the Director, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930.

* * * * *

[FR Doc. 92-3489 Filed 2-12-92; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 675

[Docket No. 911172-2021]

Groundfish of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure of directed fishing.

SUMMARY: NMFS is prohibiting directed fishing for the "other red rockfish" species group in the Bering Sea subarea (BS). This action is necessary to prevent the total allowable catch (TAC) for "other red rockfish" in the BS from being exceeded. The intent of this action is to promote optimum use of groundfish while conserving "other red rockfish" stocks.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), February 9, 1992, through 12 midnight, A.l.t., December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the groundfish Fishery of the Being Sea and Aleutian Islands (FMP) Groundfish Fishery governs the groundfish fishery in the exclusive economic zone in the Bering Sea (BS) and Aleutian Islands under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and is implemented by regulations appearing at 50 CFR 611.93 and part 675.

The amount of a species or species group apportioned to a fishery is defined as TAC at § 675.20(a)(2). Under the final notice of initial specifications (57 FR 3952, February 3, 1992), the TAC of "other red rockfish" for the BS was established as 1,400 metric tons (mt). Under § 675.20(a), 15 percent of the TAC (210 mt) was apportioned to a nonspecific reserve, leaving an initial TAC of 1,190 mt.

The Regional Director has determined that the entire TAC of "other red rockfish" will be necessary as bycatch in other directed fisheries. Under § 675.20(a)(8), NMFS is establishing a directed fishing allowance of 0 mt, and is prohibiting directed fishing for "other red rockfish" in the BS, effective 12 noon, A.l.t., February 9, 1992, through December 31, 1992.

After this closure in the BS subarea, in accordance with § 675.20(h):

(1) The operator of a vessel using trawl gear in the BS subarea may not retain on board at any particular time during a trip an amount of "other red rockfish" caught using trawl gear equal to or greater than 10 percent of the total amount of all sablefish and Greenland turbot retained at the same time on the vessel during the same trip plus 1 percent of the total amount of other fish species retained at the same time on the vessel during the same trip, all measured in round weight equivalents; and

(2) The operator of a vessel using other than trawl gear in the BS subarea may not retain on board at any particular time during a trip an amount of "other red rockfish" caught with other than trawl gear equal to or greater than 20 percent of the amount of all other fish species retained at the same time on the vessel during the same trip, all measured in round weight equivalents.

Classification

This action is taken under 50 CFR 675.20 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 7, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-3403 Filed 2-7-92; 4:49 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 30
Thursday, February 13, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 30 and 32

Offer and Sale of Foreign Exchange-Traded Options to Persons Located Outside the United States

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed order and request for comment.

SUMMARY: Pursuant to its authority under section 4c(b) [1] of the Commodity Exchange Act ("CEA" or "Act"), the Commodity Futures Trading Commission ("Commission") is proposing to provide relief under Commission rules 32.11 and 30.3(a) [2] to permit futures commission merchants ("FCMs") to solicit and accept orders and funds for foreign exchange-traded options as defined in Commission rule 30.1(b) [3] that have not been approved for trading in the United States from customers located outside the United States.[4] This proposed Order would not address transactions in foreign exchange-traded options based on a foreign stock index futures contract or foreign government debt futures contract and the restrictions thereon.[5]

DATES: Comments must be received by March 16, 1992.

ADDRESSES: Comments should be sent to the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Jane C. Kang, Esq. or Robert Rosenfeld, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone (202) 254–8955.

SUPPLEMENTARY INFORMATION: The Commission is engaged in the on-going review of existing regulations in light of growing internationalization of the marketplace so as to continue to exercise its oversight responsibility of maintaining customer and market protection without unnecessarily or inappropriately restricting market development. As discussed below, Commission rules prohibit FCMs from acting as agents for customers located outside the United States in foreign option transactions. To the extent such transactions, if permitted, would not infringe a regulatory interest of the Commission, the current prohibition may be unnecessary. In this connection, section 4c(b) of the CEA affords the Commission plenary authority over option transactions.[6]

Commission rule 32.11 prohibits any person from soliciting or accepting orders for, or from soliciting or accepting funds in connection with, the purchase or sale of any option until further rule, regulation or order of the Commission. Among other things, rule 30.3(a) of the Commission's part 30 rules governing foreign futures and option transactions makes it unlawful for any person to engage in the domestic offer or sale of any foreign option contract until the Commission, by order, authorizes the foreign option to be offered or sold in the United States.[7] As a result, until the Commission has issued an Order permitting the offer or sale in the United States of a particular foreign option, rules 32.11 and 30.3(a) operate to prohibit an FCM from engaging in such foreign option transaction even on behalf of a customer located outside the United States.

In adopting a regulatory scheme to govern the offer or sale in the U.S. of foreign options,[8] the Commission was cognizant that certain unlawful practices historically had affected the offer and sale of commodity options in the United States.[9] Accordingly, the Commission determined to phase in such products on a market-by-market basis through review of applications submitted by individual markets and the issuance of authorization orders.[10] In determining whether to issue such an order, the Commission examines criteria intended to assure the protection of U.S. customers engaged in foreign option transactions on each foreign market for which such order is entered.[11]

---

[1] Section 4c(b), 7 U.S.C. 6c(b), provides in relevant part that:

No person shall offer to enter into, enter into or confirm the execution of, any transaction involving any commodity regulated under this Act which is of the character of, or is commonly known to the trade as, an option, privilege, indemnity, bid, offer, put, call, advance guaranty, or decline guaranty, contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe.

[2] 17 CFR 32.11 and 30.3(a) (1991).

[3] "Foreign option" is defined in Commission rule 30.1(b), 17 CFR 30.1(b) (1991), as:

Any transaction or agreement which is or held out to be of the character of, or is commonly known to the trade as, an "option," "privilege," "indemnity," "bid," "offer," "put," "call," "advance guaranty," or "decline guaranty," made or to be made on or subject to the rules of any foreign board of trade.

Thus, this Order does not address foreign option contracts that are not traded on or subject to the rules of a foreign board of trade. Commission rule 32.4(a), 17 CFR 32.4(a) (1991), (the trade option exemption) also is not affected by this Order.

[4] In determining the location of a pool *cf.* Division of Trading and Markets letter dated January 29, 1992, granting relief from certain requirements of part 4 with respect to a commodity pool to be organized outside the U.S. (publication pending in (CCH) Comm. Fut. L. Rep.).

[5] *See* 7 U.S.C. 2a, 15 U.S.C. 78c(a)(12), and 17 CFR 240.3a12–8 (1991).

[6] *See* 7 U.S.C. 6c(b). See also, 7 U.S.C. 2.

[7] Rule 30.3(a) provides in relevant part:

It shall be unlawful for any person to engage in any foreign futures contract or foreign options transaction for or on behalf of a foreign futures or foreign options customer, except in accordance with the provisions of this part: *Provided*, That, notwithstanding any other provisions of this part, it shall be unlawful for any person to engage in the offer and sale of any foreign option until the Commission, by order, authorizes such foreign option to be offered in the United States. . . .

As stated above, this proviso is of general applicability and is not limited to transactions effected on behalf of customers located in the U.S. (*i.e.*, "foreign futures and option customers" as defined in 17 CFR 30.1(c)).

[8] *See* 17 CFR part 30 rules, which govern the offer or sale of foreign futures and options in the United States.

[9] *See* 51 FR 12104, 12105 (April 8, 1986).

[10] *See*, 53 FR 22840 (July 29, 1988) (Montreal Exchange); 53 FR 28826 (July 29, 1988) (Singapore International Monetary Exchange); 53 FR 28832 (July 29, 1988) (Sydney Futures Exchange); 54 FR 37636 (September 12, 1989) (London International Financial Futures Exchange); 54 FR 50348 (December 6, 1989) (London Futures and Options Exchange); 54 FR 59356 (December 6, 1989) (International Petroleum Exchange); 55 FR 23902 (June 13, 1990) (Mutual Recognition Memorandum of Understanding between the Commission and the French Commission des Operations de Bourse); 56 FR 66345 (December 23, 1991) (Marche a Terme International de France).

[11] The Commission routinely has considered: The availability of information necessary to, for example, confirm and trace off-shore transactions, arrangements in place to assure that sales practice abuses do not occur, arrangements for U.S. customers to redress grievances and the regulatory

Continued

Once an Order has been issued concerning a particular foreign option, the effect of such an Order is to permit foreign futures and options customers as defined in Commission rule 30.1(c) [12] to engage in such a foreign option transaction and registered FCMs to enter into such a transaction on behalf of such foreign futures and options customers, subject to the provisions of part 30. In addition, FCMs could offer or sell such foreign options on behalf of customers located outside the U.S., whether or not subject to the provisions of part 30.[13]

In particular, except for the antifraud provision in Commission rule 30.9,[14] which prohibits fraud in connection with *all* foreign futures and options transactions by any person, including an FCM, the Commission rules do not mandate that the full panoply of the regulatory provisions in part 30 apply in connection with customers located outside the U.S. trading foreign futures and option products. Under such circumstances, there appears to be no U.S. customer protection interest advanced by prohibiting registered FCMs from engaging in non-approved foreign option transactions on behalf of customers located outside the U.S. It is relevant to inquire, however, whether such transactions could have any impact on the financial and operational viability of a registered FCM, which could, in turn, affect its U.S. customers and other "regulated" transactions.

The effect on FCM capital under the Commission's capital rules of carrying a non-approved foreign option transaction on behalf of a customer located outside the U.S. would be no different from the effect on such firm's capital of carrying that option for a person located outside the U.S. even if it were authorized for sale in the United States. That is, whether or not a foreign option is the subject of a Commission order under rule 30.3(a), the treatment of a transaction involving such an option for customers located outside the U.S. under the Commission's capital rules would be identical. Specifically, such transactions would neither increase nor decrease an FCM's *required* net capital, which pursuant to the Commission's minimum net capital requirement in Commission rule 1.17 is calculated as 4% of the amount of funds required to be segregated or set aside on behalf of customers.[15] Further, such transactions may require an FCM to take certain charges against net capital regardless of whether the customer is U.S. or foreign.[16]

Accordingly, the Commission is publishing for public comment, this proposed Order that would allow registered FCMs to engage in foreign option transactions for customers located outside the U.S. involving options which have not been the subject of a Commission Order pursuant to Commission rule 30.3. This proposed Order would not apply to such transactions on behalf of customers located in the U.S., nor would a registered FCM by permitted to engage in such transactions for its proprietary purposes.[17]

Further, this proposed Order would be subject to the condition that in engaging in such non-approved foreign option transactions for customers located outside the U.S., the FCM must treat such option as if it had been the subject of a Commission order issued under rule 30.3(a). For example, if it elects to commingle the funds of such non-U.S. customers trading a non-approved option with the secured amount funds of U.S. customers trading approved foreign futures and options, it must, among other things, comply with the provisions of rule 30.7(b).[18] As a further condition, the FCM must maintain transaction-specific records sufficient to document that the option transaction in fact was executed in a foreign market.

In addition, as noted above, the rule 30.9 prohibition on fraud in connection with all foreign futures and option contracts would continue to apply to FCMs engaging in transactions with their customers located outside the U.S.

Finally, this proposed Order would not address transactions in foreign options based on a foreign stock index or foreign government debt futures contract and the restrictions thereon. *See* section 2(a)(1)(B) of the CEA, section 3(a)(12) of the Securities Exchange Act of 1934 and rule 3a12–8 promulgated thereunder.[19]

Issued in Washington, DC on February 7, 1992.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 92–3398 Filed 2–12–92; 8:45 am]

BILLING CODE 6351–01–M

environment in which such foreign options are traded. *See e.g.*, 53 FR 28826 (July 29, 1988); 54 FR 50348 (December 6, 1989).

[12] Commission rule 30.1(c), 17 CFR 30.1(c)(1991), defines a foreign futures and option customer as: "Any person located *in the United states, its territories or possessions* who trades in foreign futures or foreign options * * *." (emphasis added.)

[13] Although FCMs are prohibited from engaging in non-approved foreign option transactions on behalf of non-U.S. customers under Commission rules 32.11 and 30.3(a), firms granted rule 30.10 relief, notwithstanding exemptive relief granted from the FCM registration requirement, are not prohibited from carrying a non-approved option transaction for a non-U.S. customer.

[14] 17 CFR 30.9 (1991).

[15] *See* Commission rules 1.3(gg) and 1.3(rr), 17 CFR 1.3(gg) and 1.3(rr) (1991).

[16] Rule 1.17(c)(5)(iii), 17 CFR 1.17(c)(5)(iii) (1991), requires an FCM to take a charge against unadjusted net capital in an amount equal to 4% of the market value (premium) of short options traded on a foreign board of trade. An FCM also is required to take a charge against unadjusted net capital for any commodity trading account it carries if the account is undermargined for a certain period. Rule 1.17(c)(5)(viii) requires a charge for undermargined accounts after a customer's account is undermargined three business days. Rule 1.17(c)(5)(ix) requires a charge to be taken for undermargined non-customer and omnibus accounts after two business days. *See also* Financial & Segregation Interpretation 1 and instructions to Form 1–FR, adding additional two days to these periods. A foreign customer that buys or sells an option contract on a foreign board of trade will have that contract and its value included, along with any foreign futures and previously approved foreign option contracts, in determining whether the account is undermargined.

[17] Rule 1.19, 17 CFR 1.19 (1991), would continue to prohibit an FCM from acting in a principal capacity for any unapproved option transaction, including an option which had not been the subject of a Commission order under rule 30.3(a).

[18] 17 CFR 30.7(b) (1991).

[19] 7 U.S.C. 2a, 15 U.S.C. 78c(a)(12), and 17 CFR 240.3a12–8 (1991).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM91–8–000]

Qualifying Certain Tight Formation Gas for Tax Credit

February 6, 1992.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of proposed rulemaking; request for additional comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking in this proceeding on March 20, 1991, proposing to amend its regulations to carry out Congress' intent in restoring the tax credit for gas from newly drilled tight formation wells, 56 FR 13094 (March 29, 1991). In this Request for Additional Comments, the Commission seeks comments concerning the proper averaging methodology for establishing the permeability of a tight formation.

DATES: An original and 14 copies of the written comments on this Request for Comments must be filed with the Commission by March 4, 1992.

ADDRESSES: All filings should be addressed to the Secretary, Federal Energy Regulatory Commission, 825

North Capitol St., NE., Washington, DC 20426, and should refer to Docket No. RM91–8–000.

FOR FURTHER INFORMATION CONTACT: Darrell Blakeway, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. (202) 208–0224.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this notice will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Request for Additional Comments

February 6, 1992.

I. Introduction

The Commission issued a Notice of Proposed Rulemaking in this proceeding on March 20, 1991,[1] proposing three minor amendments to § 271.703(c) of the Commission's regulations to carry out Congress' intent in restoring the tax credit for gas produced from newly drilled tight formation wells.

II. Background

One of the guidelines for qualifying a formation under § 271.703(c)(2) is that "the estimated average *in situ* gas permeability, throughout the pay section, is expected to be 0.1 millidarcy or less." The Commission has never stated a preferred methodology for determining the average permeability.

In practice, however, the Commission has consistently used an arithmetic averaging method to determine whether estimated *in situ* permeability meets the guidelines established by the Commission. As a result, when a jurisdictional agency's estimate of *in situ* permeability was based on median and/or geometric averaging methodologies, the Commission did not approve the recommendation unless the data fulfilled the arithmetic averaging standards as well.

The question of the appropriate methodology to use to designate tight formations has been raised in several recent tight formation determinations. Therefore, the Commission has determined to seek comments concerning the proper averaging methodology to use to designate tight formations in this proceeding.[2] Specifically, the Commission requests comments on whether the Commission should continue to use the arithmetic average methodology to designate tight formations or whether it should allow jurisdictional agencies to use geometric or median methodologies.[3]

The comments should also address the proper methodology the Commission should use when the tight formation determination covers lands administered by two or more jurisdictional agencies. In addition comments should address whether a jurisdictional agency may use the geometric mean methodology in one case and the median methodology in another case.

III. Written Comment Procedure

The Commission invites all interested persons to submit written data, views, and other information concerning the limited inquiry in this Request for Comments. All comments in response to this Notice should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, and should refer to Docket No. RM91–8–000. An original and fourteen copies should be filed with the Commission within 20 days after publication of this Notice in the **Federal Register**.

Written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room, 941 North Capitol Street, NE., Washington, DC, during regular business hours.

By direction of the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92–3413 Filed 2–12–92; 8:45 am]

BILLING CODE 6717–01–M

[1] 56 FR 13094 (Mar. 29, 1991), III FERC Stats. & Regs. ¶ 32,479.

[2] Although the methodology for determining permeability is not directly related to the proposals in the Notice of Proposed Rulemaking in this proceeding, the Commission prefers to receive comments on the issue in a rulemaking proceeding. Since this proceeding deals with guidelines for qualifying tight formations and is ripe for issuance of a final rule, it affords an appropriate procedural vehicle for addressing the issue of determining average permeability

[3] The Commission is not reopening for comments the issues raised in the original Notice of Proposed Rulemaking in this proceeding.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Ch. I

[Docket No. 91P–0156/CP1]

Needle-Bearing Devices; Citizen Petition; Request for Comment

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Service Employees International Union (SEIU) submitted a citizen petition requesting that FDA amend the regulations and undertake administrative actions to ensure that needle-bearing medical devices are safe and effective. FDA is soliciting comments on the citizen petition. This action is being taken under 21 CFR 10.30. A conference on the prevention of blood-borne infections from device injuries will be held August 17 through 19, 1992, in Washington, DC.

DATES: Written comments by April 13, 1992.

ADDRESSES: Submit written comments to the Dockets Managment Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Citizen petition: Marquita B. Steadman, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

Conference: Laurea Timperio, Pace Enterprises, Inc., 17 Executive Park Dr., suite 200, Atlanta, GA 30329, 404–633–8610.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 513(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(a)) FDA has classified medical devices intended for human use into one of three regulatory classes, i.e., class I, general controls; class II, special controls; and class III, premarket

approval. Classification depends on the extent of control necessary to assure the safety and effectiveness of each device.

Needle-bearing devices are classified as class II devices which are devices for which general controls by themselves are insufficient to provide reasonable assurance of the safety and effectiveness of the device, and for which there is sufficient information to establish special controls to provide such assurance. See 21 CFR 880.5200, 880.5570, and 880.5860. These special controls include the issuance of performance standards, postmarket surveillance, patient registries, development and dissemination of guidelines (including guidelines for the submission of clinical data in premarket notification submissions in accordance with section 510(k) of the act (21 U.S.C. 360(k)), recommendations, and other appropriate actions as the Secretary of Health and Human Services deems necessary to provide such assurance. (See section 513(a)(1)(B) of the act (21 U.S.C. 360c(a)(1)(B).)

II. Citizen Petition

SEIU submitted the petition, dated April 18, 1992, under sections 514, 518, and 519 of the act (21 U.S.C. 360d, 360h, and 360i) to request the Commissioner of Food and Drugs to amend FDA's regulations and undertake administrative actions to ensure that needle-bearing medical devices are safe and effective.

A. Action Requested

In this petition, SEIU is requesting FDA to: (1) Issue performance standards for class II needle-bearing devices, intravascular (IV) cathethers, IV admistration sets, hypodermic single-lumen needles and piston syringes, and all other needle-bearing medical devices, including prefilled syringes marketed as pharmaceutical packaging, blood-collecting needles, winged steel needles and lancets; including spring-loaded needles and lancets; (2) amend existing regulations on reporting to include all needle-stick injuries within the definition of serious injury; (3) issue labeling guidance for prefilled syringes; and (4) adopt alternative methods of regulation of needle devices.

Furthermore SEIU is requesting that FDA undertake the following administrative actions: (1) Convene a public conference on needle-stick injuries and methods for reducing them through changes in medical devices, (2) circulate an advisory notice on the nonpercutaneous applications of needle-bearing devices with IV administration sets, and (3) circulate an advisory notice on reporting needle-stick injuries.

SEIU believes that performance standards are the only special controls which can provide reasonable assurance of the safety and effectiveness of needle-bearing medical devices. Alternatively, if the issuance of performance standards is delayed, SEIU requests that FDA reclassify needle-bearing devices, which are currently in wide use, as class III devices requiring premarket approval until appropriate standards are promulgated because these devices pose an unreasonable risk of illness or injury.

SEIU believes that these regulatory and administrative actions will result in major benefits to public health. It asserts that immediate action is necessary, given the serious and growing health threat posed by the human immunodeficiency virus (HIV), the role which needle-bearing medical devices play in transmitting HIV and other blook-borne diseases, and the existence of technology which can substantially reduce, if not eliminate, this health problem.

To obtain a copy of the citizen petition, please contact the contact person listed above.

B. Statement of Grounds

Approximately 357,000 SEIU members are health care workers. Their jobs pose a risk of exposure to blood, which carries a number of pathogens, including human immunodeficiency virus (HIV), and hepatitis B virus (HBV). The Center for Disease Control (CDC) has identified 40 health care workers who have contracted HIV occupationally. These 40 health care workers did not have any other identified risk factors other than occupational exposure. Another 15 to 20 cases are still under investigation. SEIU believes that these numbers of case reports are underestimates. SEIU asserts that more health care workers might be included in the CDC data if the agency had set up a special surveillance system of occupationally infected health care workers. More common is transmission of HBV. CDC estimates that 12,000 health care workers contract HBV on the job each year. The Occupational Safety and Health Administration (OSHA), in its proposed rule on occupational exposure to blood-borne pathogens, estimated that over 2 million health care workers are at risk for occupational exposure to blood-borne pathogens including HBV and HIV. SEIU asserts that at the time that needle-bearing devices were classified as class II medical devices, little was known about HIV and the role which needle-bearing devices play in that and other serious blood-borne diseases. However, much more is know now, and more can be done about it.

The spread of HIV infection constitutes a national public health emergency requiring urgent steps to curb its transmission wherever possible, i.e., safer medical devices. Contaminated needles and sharp objects pose the single most serious risk of exposure to blood-borne pathogens to health care workers. SEIU asserts that needle-bearing devices are a major cause of percutaneous injuries because the vast majority of such devices on the market have inherently unsafe designs, even though safer products are currently available that would significantly reduce, if not eliminate, the threat of clinical transmission of HIV and other infectious diseases. SEIU asserts that unsafe devices continue to be used, in part, because of the absence of Federal standards imposing performance safety requirements.

Therefore, SEIU is requesting that FDA issue performance standards to: (1) Eliminate the uncecessary use of non-percutaneous needle-bearing devices, i.e., use of needles to connect two segments of IV line; and (2) require the exclusive use of medical devices which are designed to eliminate the chance of needle injury to patient and user, i.e., design needle covers that remain in place during and after use.

III. Public Conference

SEIU further requests that FDA convene a public conference on needle-stick injuries and mothods for reducing them through changes in medical devices. A conference, "Frontline Healthcare Workers: A National Conference on Prevention of Device-Mediated Bloodborne Infections," will be held at the Hyatt Regency Washington on Capitol Hill, August 17 through 19, 1992. It will be sponsored by FDA, CDC, and OSHA. The purpose of the conference are to: (1) Focus attention on needle-stick injuries and performance safety of medical devices and instruments; (2) bring together device manufacturers and users/purchasers to facilitate understanding of the needs and interventions pertaining to device-mediated infections; and (3) facilitate private-sector initiatives for technology advancement, including the development of infection prevention devices and strategies.

Correspondence regarding the conference should be addressed to the contact person listed above.

IV Comments

FDA is particulary interested in comments from inventors,

manufacturers, distributors, purchasers, and users of needle-bearing medical devices. Comments from other interested individuals or groups are also welcome. FDA advises that under 21 CFR 10.30(d) any comments submitted in response to this notice will be included under the docket number found in brackets in the heading of this document. Such comments may support or oppose the petition in whole or in part. Interested persons may, on or before April 13, 1992 submit to the Dockets Management Branch (address above) written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of the documents. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 7, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-3459 filed 2-12-92; 8:45 am]

BILLING CODE 4160-01-M

Notices

Federal Register
Vol. 57, No. 30
Thursday, February 13, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Southeast Federal Center, Washington, DC; Master Development Plan; Availability of Comment

AGENCY: Advisory Council on Historic Preservation.

ACTION: Availability of comment.

SUMMARY: Notice is hereby given in accordance with the regulations of the Advisory Council on Historic Preservation, "Protection of Historic Properties" (36 CFR part 800), that a panel of three members of the Council met on January 27, 1992, to consider the proposed master development plan for the Southeast Federal Center in Washington, District of Columbia. It has been determined this undertaking will affect the Washington Navy Yard Annex Historic District, which is eligible for listing in the National Register of Historic Places.

Following the meeting, the panel adopted comments which have been transmitted to the Administrator of the General Services Administration. Pursuant to 36 CFR 800.6(c)(2), GSA is required to consider the Council's comments in reaching a final decision on the proposed undertaking.

This notice is to advise interested parties that copies of these comments are available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW., suite 809, Washington, DC, 20004–2604, 202–786–0505, ATTN: Ralston Cox.

Dated: February 6, 1992.

Robert D. Bush,

Executive Director.

[FR Doc. 92–3468 Filed 2–12–92; 8:45 am]
BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

February 7, 1992.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

New Collection

• Food Safety and Inspection Service,
Nutrition Labeling of Meat and Poultry Products,
Recordkeeping; On Occasion,
Businesses or other for-profit; Small businesses or organizations; 545,931 responses; 415,948 hours,
Roy Purdie, Jr. (202) 720–5372.

Foreign Agricultural Service,
Supplemental Qualifications Statement,
On occasion,
Individuals or households; 252 responses; 1,008 hours,
Barbara S. Warner (202) 720–1587

• Food and Nutrition Service,
Study of: WIC participant and Program Chracteristics: 1992,
Biennially,
State or local governments; 87 responses; 129 hours,
Julie Kresge (703) 305–2133.

Larry K. Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 92–3498 Filed 2–12–92; 8:45 am]
BILLING CODE 3410–01–M

Agricultural Marketing Service

[Docket No. LS–92–002]

Beef Promotion and Research; Certification and Nomination Cattlemen's Beef Promotion and Research Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: Notice is hereby given that the United States Department of Agriculture's Agricultural Marketing Service (AMS) is accepting applications from State cattle producer organizations and beef importers who desire to be certified to nominate producers or importers for appointment to vacant positions on the Cattlemen's Beef Promotion and Research Board (Board). Organizations which have not previously been certified that are interested in submitting nominations must complete and submit an official application form to AMS. Previously certified organizations do not need to reapply. Notice is also given that vacancies will occur on the Board and that during a period to be established, nominations will be accepted from eligible organizations and individual importers.

DATES: Applications for Certification must be received by close of business March 16, 1992.

ADDRESSES: Certification forms as well as copies of the certification and nomination procedures may be requested from Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Division; Agricultural Marketing Service, USDA; room 2624–S; P.O. Box 96456; Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp at 202/720–1115 (FTS 720–1115).

SUPPLEMENTARY INFORMATION: The Beef Promotion and Research Act of 1985 (Act) (7 U.S.C. 2901 et seq.), approved December 23, 1985, authorizes the implementation of a National Beef

Promotion and Research Order. The Order, as published in the July 18, 1986, **Federal Register** (51 FR 26132), provides for the establishment of a Board. The current Board consists of 105 cattle producers and 6 importers appointed by the Secretary. The duties and responsibilities of the Board are specified in the Order.

The Act and the Order provide that the Secretary shall either certify or otherwise determine the eligibility of State or importer organizations or associations to nominate members to the Board to ensure that nominees represent the interests of cattle producers and importers. Nominations for importer representatives may also be made by individuals who import cattle, beef, or beef products. Individual importers do not need to be certified as eligible to submit nominations. When individual importers submit nominations, they must establish to the satisfaction of the Secretary that they are in fact importers of cattle, beef, or beef products, pursuant to § 1260.143(b)(2) of the Order (7 CFR 1260.143(b)(2)). Individual importers are encouraged to contact AMS at the above address to obtain further information concerning the nomination process including the beginning and ending dates of the established nomination period and required nomination forms and background information sheets. Certification and nomination procedures were promulgated in the final rule, published in the April 4, 1986, **Federal Register** (51 FR 11557). Organizations which have previously been certified to nominate members to the Board do not need to reapply for certification to nominate producers and importers for the existing vacancies.

The Act and the Order provide that the members of the Board shall serve for terms of three (3) years. The Order also requires USDA to announce when a Board vacancy does or will exist. The following States have one or more members whose terms will expire in 1992:

State or unit	Number of vacancies
Alabama	1
Arkansas	1
California	2
Colorado	1
Florida	1
Georgia	1
Idaho	1
Illinois	1
Indiana	1
Iowa	2
Kansas	2
Kentucky	1
Minnesota	1
Missouri	2
Montana	1
Nebraska	2
New York	1
North Dakota	1
Ohio	1
Oklahoma	2
Oregon	1
Pennsylvania	1
South Dakota	1
Tennessee	1
Texas	5
Virginia	1
Wisconsin	1
Northwest Unit	1
Importers	1

Since there are no anticipated vacancies on the Board for the remaining States' positions, or for the positions of the Northeast and mid-Atlantic units, nominations will not be solicited from certified organizations or associations in those States or units.

Uncertified eligible producer organizations in all States that are interested in being certified as eligible to nominate cattle producers for appointment to the listed producer positions, must complete and submit an official "Application for Certification of Organization or Association," which must be received by close of business March 16, 1992. Uncertified, eligible importer organizations that are interested in being certified as eligible to nominate importers for appointment to the listed importer positions must apply by the same date. Importers should not use the application form but should provide the requested information by letter as provided for in 7 CFR 1260.540(b). Applications from States or units without vacant positions on the Board and other applications not received within the 30-day period after publication of this Notice in the **Federal Register** will be considered for eligibility to nominate producers or importers for subsequent vacancies on the Board.

Only those organizations or associations which meet the criteria for certification of eligibility promulgated at 7 CFR 1260.530 as published in 51 FR 11557, 11559 (April 4, 1986) are eligible for certification. Those criteria are:

(a) For State organizations or associations:

(1) Total paid membership must be comprised of at least a majority of cattle producers or represent at least a majority of cattle producers in a State or unit.

(2) Membership must represent a substantial number of producers who produce a substantial number of cattle in such State or unit.

(3) There must be a history of stability and permanency.

(4) There must be a primary or overriding purpose of promoting the economic welfare of cattle producers.

(b) For organizations or associations representing importers, the determination by the Secretary as to the eligibility of importer organizations or associations to nominate members to the Board shall be based on applications containing the following information:

(1) the number and type of members represented (i.e., beef or cattle importers, etc.).

(2) Annual import volume in pounds of beef and beef products and/or the number of head of cattle.

(3) The stability and permanency of the importer organization or association.

(4) The number of years in existence.

(5) The names of the countries of origin for cattle, beef, or beef products imported.

All certified organizations and associations, including those which were previously certified in the States or units having vacant positions on the Board, will be notified simultaneously in writing of the beginning and ending dates of the established nomination period and will be provided with required nomination forms and background information sheets.

The names of qualified nominees received by the established due date will be submitted to the Secretary of Agriculture for consideration as appointees to the Board.

The information collection requirements referenced in this notice have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB No. 0581–0093, except Board member nominee information sheets are assigned OMB No. 0505–0001.

Authority: 7 U.S.C. 2901 et seq.

Done at Washington, DC on February 7, 1992.

Daniel D. Haley,

Administrator.

[FR Doc. 92–3411 Filed 2–12–92; 8:45 am]

BILLING CODE 3410–02–M

Forest Service

Program to Collect Pacific Yew on Certain Federal Lands for Cancer Research

AGENCY: Forest Service, USDA.

ACTION: Revision of a notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service published a Notice of Intent (NOI) to prepare an environmental impact statement (EIS) in the **Federal Register** (56 FR 49451) on September 30, 1991 for a 5 year program to harvest Pacific Yew in the Northern, Pacific Northwest, and Pacific Southwest Regions of the Forest Service and on Bureau of Land Management Districts in the state of Oregon. The current title does not reflect the scope and purpose of this proposed analysis. The revised title of the EIS will be "Program to Collect Pacific Yew on Federal Lands in California, Idaho, Montana, Oregon, and Washington for Cancer Research and Treatment".

The NOI stated that the Bureau of Land Management (BLM) and the National Cancer Institute (NCI) would be invited to participate as a cooperating agencies in the development of the program. The NOI is revised to show that the BLM has agreed and will be a cooperator on the EIS and to show that the impacts of harvest will be analyzed on BLM lands in Washington and California as well as Oregon. The NCI will not be a cooperator on the EIS but will provide any necessary information, advice, and consultation. The Food and Drug Administration (FDA) has requested cooperating agency status and will be added as a cooperating agency.

As part of the cumulative effects analysis, the EIS will consider the potential impacts to the yew resource on all lands (state, private, and federal) in the 5-state area resulting from the harvest of yew to fulfill the demand for yew pending the FDA's possible approval of a new drug application for taxol. Food and Drug Administration's environmental assessment for new drug approval will tier to the EIS where appropriate.

FOR FURTHER INFORMATION CONTACT: Questions and comments about this EIS should be directed to Sally Campbell, EIS team leader, Pacific Northwest Region, 333 SW. First St., PO Box 3623, Portland, OR 97208–3623, telephone (503) 326–7755.

Dated: February 7, 1992.

John E. Lowe,

Deputy Regional Forester.

[FR Doc. 92–3454 Filed 2–12–92; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Arnold I. Mandel and Rona K. Mandel

Order Denying Permission to Apply For or Use Export Licenses

In the matter of Arnold I. Mandel and Rona K. Mandel, 1581 Debra Sue Place, N. Tucson, Arizona 85715.

On July 9, 1991, Arnold I. Mandel and Rona K. Mandel (hereinafter collectively referred to as the Mandels) were convicted in the United States District Court for the Eastern District of California of violating section 2410(a) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. 2401–2420 (1991)) (EAA).[1] Section 11(h) of the EAA provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of a violation of the EAA, or certain other provisions of the United States Code, shall be eligible to apply for or use any export license issued pursuant to, or provided by, the EAA or the Export Administration Regulations (currently codified at 15 CFR parts 768–799 (1991)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any export license issued pursuant to the EAA in which such a person has any interest at the time of his conviction may be revoked.

Pursuant to §§ 770.15 and 772.1(g) of the Regulations, upon notification that a person has been convicted of violating the EAA, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any export license issued pursuant to, or provided by, the EAA and the Regulations and shall also determine whether to revoke any export license previously issued to such a person. Having received notice of the Mandels' convictions for violating the EAA, and following consultations with the Director, Office of Export Enforcement, I have decided to deny the Mandels permission to apply for or use any export license, including any general license, issued pursuant to, or provided by, the EAA and the Regulations, for a period of 10 years from the date of their convictions. The 10-year period ends on July 9, 2001. I have also decided to revoke all export licenses issued pursuant to the EAA in which the Mandels had an interest at the time of their convictions.

Accordingly, *It is Hereby Ordered.*

I. All outstanding individual validated licenses in which the Mandels appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of the Mandels' privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Until July 9, 2001, Arnold L. Mandel and Rona K. Mandel, 1581 Debra Sue Place, N., Tucson, Arizona 85715, hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization, or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in § 770.15(h) of the Regulations, any person, firm, corporation, or business organization related to the Mandels by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. As provided in § 787.12(a) of the Regulations, without prior disclosure of

[1] The EAA expired on September 30, 1990. Executive Order 12730 (55 FR 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (1991)).

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by section 11(h) of the EAA.

the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. This Order is effective immediately and shall remain in effect until July 9, 2001.

VI. A copy of this Order shall be delivered to the Mandels. This Order shall be published in the **Federal Register.**

Dated: February 4, 1992.

Iain S. Baird,

Director, Office of Export Licensing.

[FR Doc. 92-3472 Filed 2-12-92; 8:45 am]

BILLING CODE 3510-DT-M

Biotechnology Technical Advisory Committee; Closed Meeting

A meeting of the Biotechnology Technical Advisory Committee will be held March 3, 1992, 9:30 a.m. in the Herbert C. Hoover Building, room 1617M, 14th Street & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and policy analysis with respect to technical questions that affect the level of export controls applicable to biotechnology and related equipment and technology.

The Committee will meet only in executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on December 28, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information, contact Lee Ann Carpenter on (202) 377-2583.

Dated: February 6, 1992.

Betty Anne Ferrell,

Director, Technical Advisory Unit, Office of Technology & Policy Analysis.

[FR Doc. 92-3515 Filed 2-12-92; 8:45 am]

BILLING CODE 3510-DT-M

Materials Processing Technical Advisory Committee; Closed Meeting

A meeting of the Materials Processing Technical Advisory Committee will be held February 27, 1992, 9 a.m., in the Herbert C. Hoover Building, room 1617M, 14th Street & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to materials processing and related technology. The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 5, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information, contact Lee Ann Carpenter on (202) 377-2583.

Dated: February 6, 1992.

Betty A. Ferrell,

Director, Technical Advisory Committee Staff.

[FR Doc. 92-3516 Filed 2-12-92; 8:45 am]

BILLING CODE 3510-DT-M

Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held February 26, 1992, 9:30 a.m., in the Herbert C. Hoover Building, room 1617M, 14th & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to telecommunications and related equipment and technology.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Approval of minutes.
3. Presentation of papers or comments by the public.
4. Report on status of U.S. implementation of Core List.
5. Discussion of industry reaction to Core List and recommendations for future changes.

Executive Session

6. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address:

Lee Ann Carpenter
Technical Support Staff

OTPA/BXA, Room 1621
U.S. Department of Commerce
14th & Pennsylvania Ave., NW.
Washington, DC 20230

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 5, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 377–2583.

Dated: February 6, 1992.

Betty Anne Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 92–3517 Filed 2–12–92; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[C–549–804]

Carbon Steel Butt-Weld Pipe Fittings From Thailand; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On October 25, 1991, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on carbon steel butt-weld pipe fittings from Thailand for the period November 3, 1989 through December 31, 1990 (56 FR 55283). We have now completed that review and determine the total bounty or grant to be 1.02 percent *ad valorem* for the period November 3, 1989 through December 31, 1989 and 1.76 percent *ad valorem* for the period January 1, 1990 through December 31, 1990 for all exports of the subject merchandise to the United States. The rate for the period January 1, 1990 through December 31, 1990 differs from the preliminary rate of 2.02 percent *ad valorem* because of calculation adjustments.

EFFECTIVE DATE: February 13, 1992.

FOR FURTHER INFORMATION CONTACT: Donna Kinsella or Barbara Tillman, Office of Countervailing Duty Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On October 25, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 55283) the preliminary results of its administrative review of the countervailing duty order on carbon steel butt-weld pipe fittings from Thailand (55 FR 1695; January 18, 1990). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of carbon steel butt-weld pipe fittings, having an inside diameter of less than 360 millimeters (fourteen inches), imported in either finished or unfinished form. These formed or forged pipe fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (e.g., threaded, grooved, or bolted fittings). During the review period, such merchandise was classifiable under item number 73.07.93.30 of the Harmonized Tariff Schedule. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period November 3, 1989 through December 31, 1990, and the following programs: (1) Tax certificates for exports; (2) export packing credits; (3) tax and duty exemptions under section 28 of the Investment Promotion Act (IPA); (4) electricity discounts for exporters; (5) repurchase of industrial bills; (6) export processing zones; (7) International Trade Promotion Fund; (8) reduced business taxes for producers of intermediate goods for export industries; and (9) additional incentives under the IPA. Three companies produced and exported the subject merchandise to the United States during the review period.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from all three respondents—TTU Industrial Corporation Ltd., (TTU), Awaji Sangyo (Thailand) Company, Ltd., (AST), and Thai Benkan Company, Ltd., (TBC)—and the Royal Thai Government (RTG).

Comment 1: All three respondents and the RTG argue that the Department should recalculate AST's benefits under section 28 of the Investment Promotion Act to reflect the actual amount of exempted import duties and taxes on AST's importations of machinery during the review period.

AST states that in its questionnaire response it reported section 28 exemptions on duties and taxes based upon the amounts stated in its applications to the Board of Investment. AST argues that at verification it presented copies of Thai Customs import entry documentation which showed that the actual exempted duties and taxes for two importations were different than the duty and tax exemptions reported in its applications to the BOI and in the questionnaire response. Respondents argue therefore that the Department should calculate the benefits under section 28 using the actual amount of duties and taxes exempted as evidenced on the Thai Customs import entry documentation.

Response: We agree with respondents that, with respect to taxes and import charge exemptions, it is the Department's normal practice to calculate the benefit to respondent based on the actual amount of taxes and import charges a firm would have paid absent the exemption. See, *e.g.*, Final Affirmative Countervailing Duty Determination; Certain Fresh Cut Flowers from Costa Rica (52 FR 32030, 32031, August 25, 1987). While we note that data regarding AST's actual tax and duty exemptions was not submitted on the record of this review until after verification, we also find that the actual tax and duty exemptions stated on the relevant Thai Customs import documentation vary from the estimated tax and duty exemptions on only two importations. Given that this change constitutes only a minor correction to the questionnaire response, and given that it is our normal practice to use actual exemption amounts where possible, for these final results, we have used the actual amount of duties and taxes exempted on AST's imports of machinery in calculating the benefits under section 28 of the IPA.

Comment 2: AST and TBC argue that for purposes of calculating the benefit received under section 28 of the IPA the Department should exclude tax and duty exemptions on machinery which is used exclusively to produce non-subject merchandise.

AST states that in its questionnaire response it reported that a portion of the company's tax and duty exemptions under section 28 were for machinery and equipment used to produce merchandise outside the scope of this review. AST states that it calculated the amount of the exemptions on such equipment and requested that the Department exclude this amount from its calculation of AST's benefits. AST asserts that it demonstrated at verification that the section 28 exemptions for which it requested exclusion consisted entirely of duties and taxes on imported machinery used exclusively to produce non-subject merchandise.

Response: We disagree with respondents. At verification, the Department examined documentation relating to the importation of machinery, some of which respondent states is used exclusively to produce non-subject merchandise. As we stated in our preliminary results, however, we were unable to tie exempted duties and taxes as recorded on Thai Customs documentation to specific pieces of machinery based on the evidence obtained at verification and on the record. As a result, we calculated the benefit under this program by dividing the total amount of exemptions received during the review period by the respondent's total export sales value.

The documentation referred to by respondent as proof that certain pieces of machinery exempted from duties and taxes are used exclusively to produce merchandise outside the scope of the order consists of invoices, packing lists, and Thai Customs import documentation. While the packing lists accompanying certain invoices list various pieces of equipment by size, the relevant Customs documentation does not specify the value of, or the exact amount of, actual duties and taxes pertaining to individual pieces of equipment. As a result, the Department could not determine the exact amount of tax and duty exempted on each piece of equipment, and, as such, could not segregate the exact amount of taxes and duties exempted on machinery used to produce non-subject merchandise. Furthermore, after reviewing respondent's questionnaire response and subsequent submissions and examining documentation obtained at verification relating to this issue, the Department found several discrepancies. For example, respondent's September 20, 1991 submission to the Department differs from its original questionnaire response as to which exemptions should be excluded from the benefit calculation. Respondent provided no explanation for these discrepancies.

In view of the above, for these final results, the Department has continued to include all tax and duty exemptions received during the review period in calculating section 28 benefits.

Comment 3: The RTG and TTU argue that the Department should revise its treatment of the allowable rebate rate under the tax certificate program to reflect information submitted by respondents on additional physically incorporated inputs.

Response: Respondents' information relating to the tax certificate program is untimely. Contrary to statements in respondents' brief, there was no discussion of this matter at verification. The Department did not receive additional information regarding the allowable rebate rate under the tax certificate program until after the preliminary results of review were issued. In accordance with Departmental practice, new factual information submitted after the issuance of preliminary results of review is considered untimely and cannot be considered for these final results.

Comment 4: Respondents argue that in the preliminary results of this review the Department wrongly rejected the use of the 1989 and 1990 Bank of Thailand (BOT) benchmarks in favor of an average of the minimum loan rates (MLR) and maximum overdraft rates (MOR) for 1989 and 1990. They argue that the BOT benchmarks are based on accurate and reliable data and that the methodology used to calculate the BOT benchmarks is consistent with the Department's proposed regulations. Respondents state that the MLR and MOR are not representative of the actual average commercial lending rates in Thailand, because much commercial lending in Thailand is at lower rates. Based on the above, respondents urge the Department to utilize the BOT benchmark interest rates for these final results of review.

Response: As stated in the preliminary results of this review, the Department concluded in Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Steel Wire Rope from Thailand (56 FR 46299, September 11, 1991) (Steel Wire Rope) that the MLR and MOR rates are more representative of short-term interest rates in Thailand for calendar years 1988 and 1989 than the weighted-average interest rates charged by commercial banks on domestic loans, bills, and overdrafts used in previous Thai cases. Respondents submitted no evidence on the record of this review to refute this determination. Therefore, as the benchmark interest rate for purposes of calculating the benefit from Export Packing Credit loans (EPCs) on which interest was paid in 1989, we used an average of the 1989 MLR and MOR rates as calculated in Steel Wire Rope. Furthermore, absent new evidence that the MLR and MOR rates are not more representative of short-term interest rates during 1990 than the benchmark calculated by the BOT, we have used an average of these rates during 1990 as the benchmark interest rate for calculating the benefit from EPCs on which interest was paid in 1990.

Final Results of Review

As a result of our review, we determine the total bounty or grant to be 1.02 percent *ad valorem* for the period November 3, 1989 through December 31, 1989 and 1.76 percent *ad valorem* for the period January 1, 1990 through December 31, 1990.

The Department will instruct the Customs Service to assess countervailing duties of 1.02 percent of the f.o.b. invoice price on all shipments of this merchandise exported on or after November 3, 1989 and on or before December 31, 1989 and 1.76 percent of the f.o.b. invoice price on all shipments of this merchandise exported on or after January 1, 1990 and on or before December 31, 1990.

The Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 1.76 percent of the f.o.b. invoice price on all shipments of this merchandise from Thailand entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: January 31, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3518 Filed 2-12-92; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Business Development Center Applications: Miami/Ft. Lauderdale, FL

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the U.S. Department of Commerce's Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is $483,525 in Federal funds and a minimum of $85,328 in non-Federal (cost-sharing) contributions. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The period of performance will be from July 1, 1992 to June 30, 1993. The MBDC will operate in the Miami/Ft. Lauderdale geographic service area.

The award number for this MBDC will be 04–10–92007–01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, State and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to perform the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDC based on such factors as an MBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance with OMB Circular A–129 "Managing Federal Credit Programs," applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements, satisfactory to the Department of Commerce, are made to pay the debt.

Applicants are subject to Governmental Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26.

The Department Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, title V subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a pre-condition for receiving Federal grant or cooperative agreement awards.

15 CFR, part 28, is applicable and prohibits recipients of Federal contracts, grants, and cooperative agreements from using appropriated funds for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a specific contract, grant or cooperative agreement. Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying" and, when applicable, the SF–LLL, "Disclosure of Lobbying Activities," are required.

CLOSING DATE: The closing date for submitting an application is March 16, 1992. Applications must be postmarked on or before March 16, 1992. Proposals will be reviewed by the Washington Regional Office. The mailing address for submission of RFA responses is: Washington Regional Office, Minority Business Development Agency, 14th & Constitution Avenue, NW., room 6711, Washington, DC 20230.

A pre-application conference to assist all interested applicants will be held on February 26, 1992, 9 a.m. at the following address: U.S. Department of Commerce, Minority Business Development Agency, 401 West Peachtree Street, NW., room 1930, Atlanta, Georgia 30308.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. To order a Request for Application (RFA) and to receive

additional information, contact: Carlton L. Eccles, Regional Director of the Atlanta Regional Office on (404) 730–3300 or U.S. Department of Commerce, Minority Business Development Agency, 401 West Peachtree Street, NW., room 1930, Atlanta, Georgia 30308.

11.800 Minority Business Development

(Catalog of Federal Domestic Assistance)

Dated: February 7, 1992.

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

[FR Doc. 92–3453 Filed 2–12–92; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of availability of evaluation findings.

SUMMARY: Notice is hereby given of the availability of the evaluation findings for the Alaska and Virgin Islands coastal management programs and the Waquoit Bay (Massachusetts) and Old Woman Creek (Ohio) National Estuarine Research Reserves. Section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended, requires a continuing review of the performance of coastal States with respect to coastal management and the operation and management of estuarine reserves.

The State of Alaska and the Territory of the Virgin Islands were found to be implementing and enforcing their federally approved coastal management programs, addressing the national coastal management objectives identified in CZMA section 303(2)(A)–(K), and adhering to the programmatic terms of their financial assistance awards. The Wacquoit Bay and Old Woman Creek National Estuarine Research Reserves were found to be adhering to National Estuarine Research Reserves were found to be adhering to National Estuarine Research Reserve System goals, to their federally approved management plans, and to the terms of their financial assistance awards.

Copies of these findings may be obtained upon request from: Vickie Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1825 Connecticut Avenue, NW., Washington, DC 20235, (202) 606–4100.

(Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration)

Dated: February 7, 1992.

John J. Carey,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 92–3410 Filed 2–12–92; 8:45 am]

BILLING CODE 3510–08–M

Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Virginia Coastal Management Program (VCMP) and of the Weeks Bay (Alabama) and Jobos Bay (Puerto Rico) National Estuarine Research Reserves.

These evaluations will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended. The CZMA requires a continuing review of the performance of coastal States with respect to coastal management and the operation and management of national estuarine research reserves (NERRs). Evaluation of a coastal management program requires findings concerning the extent to which a State has implemented and enforced the management program approved by the Secretary of Commerce, addressed the coastal management needs identified in CZMA section 303(2) (A) through (K), and adhered to the terms of financial assistance awards funded under the CZMA. Evaluation of an estuarine reserve requires findings pertaining to a State's implementation of its federally approved NERR management plan, and adherence to the terms of financial assistance awards funded under the CZMA. These reviews include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. A public meeting(s) is held as part of the site visit.

Notice is hereby given of the dates of the site visit for listed evaluations, and the date, local time, and location of a public meeting(s) during the site visit:

(1) Weeks Bay NERR site visit, March 23–26, 1992. A public meeting will be held Tuesday, March 24, 1992, at the Faulkner State Community College, Bell Building, Fairhope, Alabama.

(2) Jobos Bay NERR site visit, March 23–27, 1992. A public meeting will be held Thursday, March 26, 1992, 7 p.m., at Casa Del Rey, 23 E. Genaro Cautino St., Guayama, Puerto Rico.

(3) Virginia Coastal Management Program site visit, April 6–10, 1992. A public meeting will be held Wednesday, April 8, 1992, 7 p.m., at the Rappahannock Community College, South Campus, room 131, Glenns, Virginia.

The respective States will issue notice of the public meeting(s) in local newspapers at least 45 days prior to being held and will issue other timely notices as appropriate.

Copies of the State's most recent performance reports, as well as OCRM's notification and supplemental request letter to the State, are available upon request from OCRM. Written comments from interested parties regarding each of these programs are encouraged at this time and will be accepted until seven days after the site visit. Please direct written comments to Vickie Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1825 Connecticut Ave., NW., Washington, DC 20235. When the final evaluation findings are completed, OCRM will place a notice in the **Federal Register** announcing their availability.

FOR FURTHER INFORMATION CONTACT: Vickie Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1825 Connecticut Avenue, NW., Washington, DC 20235, (202) 606–4100.

(Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration)

Dated: February 7, 1992.

John J. Carey,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 92–3409 Filed 2–12–92; 8:45 am]

BILLING CODE 3510–08–M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Interim modification of scientific research permit No. 748 (P77#50).

On August 8, 1991, pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and

Importing of Marine Mammals (50 CFR part 216), and § 220.24 of the Regulations Governing Endangered Species (50 CFR parts 217–222), Scientific Research Permit No. 748 was issued to the National Marine Fisheries Service, Southwest Fisheries Science Center, P.O. Box 271, La Jolla, CA 92038 to harass up to 17 species of cetaceans over a 36-month period, during the course of photo-identification studies and aerial surveys along the California coast.

As a result of an apparent misinterpretation of the numbers requested in the original permit application, the Permit as currently written does not take into account the numbers of animals that may be taken by inadvertent harassment during the conduct of aerial survey activities over the full 36-month permit period. Consequently, notice is hereby given that, pursuant to the provisions noted above, Special Condition A.3 of the permit has been modified to provide for the short term continuance of aerial surveys of the species/numbers of marine mammals currently authorized under the Permit. A second modification is anticipated to fully cover aerial surveys throughout the duration of the Permit.

All other conditions currently contained in the Permit remain in effect.

This modification becomes effective on February 5, 1992.

Dated: February 5, 1992.

Michael F. Tillman,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92–3402 Filed 2–12–92; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Prospective Grant of Exclusive Patent License

This notice is in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent 4,860,529, "Shaking Mechanism for Fruit Harvesting", to B.E.I. company, having a place of business at 1375 Kalamazoo Street, South Haven, Michigan. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention relates to a spiked-drum shaking mechanism for small fruits designed so that the point of oscillation is located at a distance from the point of rotation, providing uniform acceleration along the spikes.

The availability of the invention for licensing was published in the **Federal Register** Vol. 55 No. 138, p. 29256, July 18, 1990. A copy of the patent may be purchased for $3.00 from the U.S. Patent and Trademark Office, Box 9, Washington, DC 20231.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Douglas J. Campion, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151. Properly filed competing applications received by the NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Douglas J. Campion,

Center for Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 92–3396 Filed 2–12–92; 8:45 am]

BILLING CODE 3510–04–M

Prospective Grant of Exclusive Patent License

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the State of Florida to Busbee, Wilkins and Sealy, Inc., having a place of business at Groveland, Florida, to practice the invention embodied in U.S. Patent 4,284,651, "Method of Preparing Citrus Fruit Sections with Fresh Fruit Flavor and Appearance". The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS received written evidence and argument which establishes that the grant of the license would be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention relates to a process of preparing thick albedo type citrus fruit sections by treating citrus fruit with enzymes to allow the removal of peel and separation of the sections from one another without the loss of juice or tissue.

The availability of the invention for licensing was published in the **Federal Register** Vol. 46, No. 18, p. 9160 (January 28, 1981). A copy of the instant patent may be purchased for $3.00 from the U.S. Patent and Trademark Office, Box 9, Washington, DC 20231.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Douglas J. Campion, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151. Properly filed competing applications received by the NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Douglas J. Campion,

Center for Utilization of Federal Technology, National Technical Information Service, Department of Commerce.

[FR Doc. 92–3470 Filed 2–12–92; 8:45 am]

BILLING CODE 3510–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Contract Administration Working Group of the DOD Advisory Panel on Streamlining and Codifying Acquisition Laws

AGENCY: Defense Systems Management College, DOD.

ACTION: Request for public comment.

SUMMARY: The DOD Advisory Panel has designated working groups of the Panel to address specified areas of acquisition laws. The working group that is addressing laws relating to contract administration is reviewing them in the following groupings and order of priority:

Contract payment
Cost principles
Contract audit and access to records
Cost Accounting Standards
Administration of contract provisions relating to price, delivery, and product quality
Claims and disputes
Extraordinary contractual relief—Public Law 85–804

Listed below are the laws identified by the panel that relate to cost principles:

10 U.S.C. 2324 Allowable costs
10 U.S.C. 2372 IR&D
41 U.S.C. 256 Allowability of costs

41 U.S.C. 420 Travel expenses

Request responses to the following questions on each law:

—Is the law serving its intended purposes?
—Has the law created inefficiencies?
—Has it unduly burdened the buyer/seller relationship?
—Is it required for the continuing financial and ethical integrity of defense procurement programs?
—Is it required to protect the best interests of DOD?
—Is the law still relevant?
—Does it overlap, duplicate, or conflict with other laws?
—Does it contain ambiguous terms or provisions which have led to problems in interpretation?
—Should the law apply to commercial products?
—Should it apply to first tier subcontracts, or all subcontracts?

In addition to the laws relating to cost principles, the Contract Administration Working Group is considering 10 U.S.C. 2382, Contract profit controls during emergency periods. Comments are requested on the application of this law to Department of Defense procurements.

The panel also solicits suggestions of other laws relating to cost principles that should be considered by the Panel.

Individuals and organizations wishing to provide information to the Working Group may provide the information to Ms. Joanne Barreca, Acquisition Law Task Force analyst, at Defense Systems Management College, 8580 Cinderbed, suite 800, Newington, VA 22122 (703–355–2666).

Dated: February 7, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–3476 Filed 2–12–92; 8:45 am]

BILLING CODE 3810–01–M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, March 3, 1992; Tuesday, March 10, 1992; Tuesday, March 17, 1992; Tuesday, March 24, 1992; and Tuesday, March 31, 1992, at 10 a.m. in room 800, Hoffman Building #1, Alexandria, Virginia.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy/Equal Opportunity) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, room 3D264, The Pentagon, Washington, DC 20310.

Dated February 7, 1992.

L. M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–3478 Filed 2–12–92; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

Intent To Grant Exclusive Patent License

Pursuant to the provisions of part 404 of title 37, Code of Federal Regulations, which implements Public Law 96–517, the Department of the Air Force announces its intention to grant Arbor Research Corporation, 1030 Fairmont Drive, Ann Arbor, MI 48105, a corporation of the State of Michigan, an exclusive license under United States Letters Patent No. 4,880,443, which matured from application Serial No. 07/288,315, filed 22 December 1988 in the names of George W. Miller and Clarence F. Theis for "Molecular Sieve Oxygen Concentrator with Secondary Oxygen Purifier."

The license described above will granted unless an objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below within sixty (60) days from the date of publication of this Notice. Copies of the patent may be obtained, on request, from the same addressee.

All communications concerning this Notice should be sent to Mr. Donald J. Singer, Chief, Patents Division, Air Force Legal Services Agency, 1900 Half Street SW., Washington, DC 20324, Telephone No. (202) 475–1386.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92–3484 Filed 2–12–92; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Availability of Army's Response to DOL Evaluation Report

AGENCY: Office of the Chief of Staff, Army, DoD.

ACTION: Notice, availability of Army's response to DOL Evaluation Report.

SUMMARY: A copy of the Army's response to the Department of Labor evaluation report of the U.S. Department of the Army's Occupational Safety and Health Program for the Chemical and Biological Defense Research Laboratories (February 1991) is available by writing to: HQDA(DACS–SF), ATTN: Mr. William Wortley, room 2C717, Pentagon, Washington, DC 20310–0200. Only written requests will be acknowledged.

FOR FURTHER INFORMATION CONTACT: Mr. William Wortley, HQDA(DACS–SF), room 2C717, Pentagon, Washington, DC 20310–0200.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92–3483 Filed 2–12–92; 8:45 am]

BILLING CODE 3710–08–M

Environmental Impact Statement; Reuse and Disposal of Fort Ord

AGENCY: Department of the Army, DoD.

ACTION: Notice of intent to prepare an environmental impact statement (EIS) for the reuse and disposal of Fort Ord.

SUMMARY: The action to be evaluated by this EIS is the disposal and reuse of Fort Ord, California, in accordance with the

legislative requirements of the Defense Base Closure and Realignment Act of 1990, Public Law 101–510.

ALTERNATIVES: Public Law 101–510 exempted the decision making process, the need to make the realignment, and consideration of alternative installations from the requirements of the National Environmental Policy Act of 1969 (NEPA). This EIS will evaluate alternative methods of implementing the Commission's decision, including alternative reuses of the disposed property. Potential reuse alternatives will be explored as further information about Fort Ord's environmental status is developed. Development of the potential alternative reuses of the disposed property will be made in conjunction with the local community, Office of Economic Adjustment, and the Army. The EIS will also address the socioeconomic effects of the relocation of the Army on Fort Ord. As required by NEPA, the Army will also analyze the "no action" alternative as a baseline for gauging the impacts of the disposal and reuse.

PUBLIC INVOLVEMENT: The public will be invited to participate in the scoping process, review of the draft Environmental Impact Statement, and a public meeting. The location and time of the scoping meeting to be scheduled during the month of March, 1992, will be announced in the local news media. Release of the draft EIS for public comment and the public meeting will also be announced in the local news media, as these dates are established.

POINT OF CONTACT: Mr. Bob Verkade, Sacramento District, Corps of Engineers, 916/557–7423.

Lewis D. Walker,

Deputy Assistant Secretary of the Army, Environment, Safety and Occupational Health OASA(IL&E).

[FR Doc. 92–3521 Filed 2–12–92; 8:45 am]

BILLING CODE 3710–08–M

Intent Chemical Stockpile Disposal Program

Intent to prepare an Environmental Impact Statement (EIS) and to initiate the public scoping process for the construction and operation of the chemical agent disposal facility at the Newport Army Ammunition Plant, Indiana.

AGENCY: Department of the Army, DoD.

ACTION: Notice of the intent.

SUMMARY: This announces the Notice of Intent to prepare an EIS on the potential impact of the design, construction, operation and closure of the proposed chemical agent demilitarization facility at the Newport Army Ammunition Plant (NAAP), Indiana. The proposed facility will be used to demilitarize all VX (a nerve agent) filled ton containers currently stored at the NAAP. Potential environmental impacts will be examined for several locations at NAAP of the on-site incineration facility and "no action" alternatives. The "no action" alternative is considered to be continued storage of the VX-filled ton containers at the NAAP.

SUPPLEMENTARY INFORMATION: In its Programmatic Record of Decision (53 FR 5816, February 26, 1988) for the Chemical Stockpile Disposal Program, the Department of the Army decided to incinerate the stockpile on site at all eight chemical munitions storage sites within the continental United States. The Army has decided that an EIS will be prepared to asses the site-specific health and environmental impacts of on-site incineration of VX-filled ton containers at the NAAP. The first phase (scoping) of this effort will entail the collection and analysis of detailed site-specific information to ensure that the selected programmatic alternative (on-site incineration) remains valid for the NAAP. A separate report, required by Congress, summarizing this effort will be published prior to preparation of the draft EIS for the NAAP. The draft EIS will be available in the summer of 1993. Upon completion of the draft EIS, the public will be notified of its availability for review.

NOTICE OF PUBLIC MEETING: Notice is further given of the Army's intention to conduct a scoping meeting to aid in determining the significant issues related to the proposed action at the NAAP. Public, as well as Federal, State and local agencies, participation and input are welcome. The scoping meeting will be held on April 3, 1992, at 7 p.m. at the North Vermillion High School, located on State Road 63, ½ mile north of Cayauga in Vermilllion County, Indiana. Interested individuals, governmental agencies and private organizations are encouraged to attend and submit information and comments for comments for consideration by the Army.

FOR FURTHER INFORMATION CONTACT: Program Manager for Chemical Demilitarization, ATTN: SAIL–PMM–N (Ms. Monica Satrape), Aberdeen Proving Ground, Maryland 21010–5401. Individuals desiring to be placed on a mailing list to receive additional information on the public scoping process and copies of the draft and final EIS should contact the Program Manager at the above address.

Lewis D. Walker,

Deputy Assistant Secretary of the Army, Environment, Safety and Occupational Health, OASA(I,L&E).

[FR Doc. 92–3496 Filed 2–12–92; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Office of Human Resources and Administration: Availability of Data Acquisition Activities

AGENCY: Department of Education.

ACTION: Notice of availability of data acquisition activities approved prior to February 15, 1992.

SUMMARY: The Secretary publishes this notice to advise interested persons that they may obtain information regarding a list of approved education-related data acquisition activities that Federal agencies will use to collect data during school year 1992–93. The list includes all data acquisition activities approved before February 15, 1992.

DATES: The listing of approved data acquisition activities will be available February 15, 1992.

FOR FURTHER INFORMATION CONTACT: For information about this list or copies of the list, contact Michael R. Zysman, U.S. Department of Education, Information Management and Compliance Division, 400 Maryland Avenue, SW., room 5624, ROB–3, Washington, DC 20202–4651. Telephone: (202) 708–9275. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: Under section 400A of the General Education Provisions Act, the Secretary of Education is responsible for reviewing and coordinating the collection of information and data acquisition activities of Federal agencies:

(a) Whenever the respondents are primarily educational agencies or institutions; or

(b) Whenever the purpose of the activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs.

Under section 400A the Secretary also informs the public of data acquisition activities that were approved by

February 15, 1992. These data acquisition activities are considered information collection requests under the Paperwork Reduction Act of 1980. Under that Act and Office of Management and Budget (OMB) implementing regulations, proposed information collection requests must be published in the **Federal Register** on or before submission to OMB for final approval. Thus, the list announced by this notice includes each data acquisition activity for which the following requirements have been met prior to February 15, 1992: Approval by the Secretary for use in the 1992–93 school year; publication in the **Federal Register** as a proposed information collection request; and approval by OMB.

Interested persons may obtain a copy of the list of approved information collection requests, or information regarding that list from Michael R. Zysman at the address and telephone number listed at the beginning of this notice.

Dated: February 7, 1992.

Donald A. Laidlaw,

Assistant Secretary for Human Resources and Administration.

[FR Doc. 92–3446 Filed 2–12–92; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Developing Area Specific Waste Management Plans for Oil and Gas Exploration and Production Operations

AGENCY: Metairie Site Office, U.S. Department of Energy.

ACTION: Notice of non-competitive financial assistance (Grant) award with International Human Resources Development Corporation (IHRDC).

SUMMARY: The Department of Energy (DOE), Metairie Site Office announces that pursuant to 10 CFR 600.7(b)(2)(i) criteria (B), it intends to make a Non-Competitive Financial Assistance (Grant) Award through the Pittsburgh Energy Technology Center to IHRDC for a series of workshops entitled "Developing Area Specific Waste Management Plans for Oil and Gas Exploration and Production Operations."

SUPPLEMENTAL INFORMATION: *Awardee:* International Human Resources Development Corporation (IHRDC).

Grant Number: DE–FG22–92MT92014.

Grant Value: $400,000.00.

SCOPE: The objective of the grant project is to cofund up to 40 workshops entitled "How to Develop Area Specific Exploration and Production Waste Management Plans" throughout the United States. The primary objective of these workshops is to train and motivate applicable independent and major oil and gas operating company personnel to develop and use an area-specific Waste Management Plan for exploration and production operations. The workshops provide practical training focusing on the methodology for developing area specific waste management plans. They emphasize wastes generated in onshore oil and gas production lease operations, onsite drilling and servicing operations, and gas plant operations. Workshops in coastal areas will also address some of the major considerations for offshore waste management plans.

The area plan communicates how wastes should be managed and disposed. The area-specific Waste Management Plan can be used for: (1) insuring ongoing regulatory compliance and continued protection of the environment, (2) a basis for an ongoing training program for field personnel, and (3) evaluation and monitoring of the waste management practices.

The target audience for the workshops are industry regulatory and environmental specialists, field supervisors, engineers, Federal and state regulatory agency personnel, and consultants, with waste management responsibilities. These workshops are currently planned in 27 cities throughout the United States over an 23-month period in 1992 and 1993. This training would be based on the API Environmental Guidance Document: Onshore Solid Waste Management in Exploration and Production Operations, a workbook, a case study approach, Federal and state environmental laws and regulations, and other materials. The American Petroleum Institute (API) is planning on allocating a minimum of $50,000 in their own funds towards the workshops. IHDRC is serving as the contractor to API for these workshops. This DOE grant would allow IHRDC to underwrite the per attendee charge, lowering the costs from approximately $300 to $250 or less.

In accordance with 10 CFR 600.7(b)(2)(i) criteria (B), a noncompetitive Financial Assistance Award to IHRDC has been justified.

This effort would be conducted by the IHRDC using their own resources and those of API; however, DOE support of the activity would enhance public benefits to be derived by making these workshops available to a wider audience than would otherwise be able to afford to attend. DOE knows of no other entity which is conducting or planning to conduct such an effort. This effort is considered suitable for noncompetitive financial assistance and would not be eligible for financial assistance under a solicitation, and a competitive solicitation would be inappropriate.

The grant is for an estimated total value of $400,000. The API share of cofunding for the workshops is a minimum of approximately $50,000. The DOE share of cofunding for the workshops is estimated at $100,000 and shall be used to pay for the reasonable cost of staff, administrative support personnel, consultants, experts, advertising, and printing costs as necessary for the workshops.

For further information contact: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS921–118, Pittsburgh, PA 15236, Attn: Rhonda Dupree. Telephone: AC (412) 892–4949.

Dated: February 4, 1992.

Richard D. Rogus,

Contracting Officer, Pittsburgh Energy Technology Center.

[FR Doc. 92–3506 Filed 2–12–92; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance Award; Intent to Award a Noncompetitive Grant

AGENCY: Savannah River Field Office, DOE.

ACTION: Notice of noncompetitive award of grant.

SUMMARY: The DOE announces that it plans to award a grant to the South Carolina Department of Health and Environmental Control (SCDHEC), 2600 Bull Street, Columbia, SC 29201 for emergency response to radiological and hazardous materials at the DOE's Savannah River Site (SRS) near Aiken, SC. The grant will be awarded for a five-year period at an estimated cost of $2,330,668. Funds of $534,420 will be provided for the first year. Pursuant to 600.7(b)(2)(i)(C) of the DOE Assistance Regulations (10 CFR part 600), DOE has determined that a noncompetitive award is appropriate since the applicant is a unit of government and the activity to be supported is related to performance of their function within the subject jurisdiction.

PROCUREMENT REQUEST NUMBER: 09–92SR18264.001.

PROJECT SCOPE: SCDHEC shall develop and maintain effective State and local

radiological and hazardous material emergency preparedness capabilities for responding to an emergency at the SRS. In addition, the grantee will coordinate State and local emergency plans and procedures development, training, and public awareness programs and emergency response exercise participation.

SCDHEC is the authorized and qualified State regulatory agency to perform the functions covered under this grant.

DOE has determined that this award to SCDHEC on a noncompetitive basis is appropriate.

FOR FURTHER INFORMATION CONTACT: Elizabeth T. Martin, Contracts Management Branch, U.S. Department of Energy, Savannah River Field Office, P.O. Box A, Aiken, SC 29802. Telephone: (803) 725–2191.

Issued in Aiken, South Carolina on: 3 February 1992.

Peter M. Hekman, Jr.,

Manager, DOE Savannah River Field Office, Head of Contracting Activity.

[FR Doc. 92–3507 Filed 2–12–92; 8:45 am]

BILLING CODE 6450–01–M

Workshop on High-Efficiency Fine Coal Preparation

AGENCY: Pittsburgh Energy Technology Center, U.S. Department of Energy.

ACTION: Notice of non-competitive financial assistance (Grant) award with Virginia Polytechnic Institute and State University.

SUMMARY: The Department of Energy (DOE), Pittsburgh Energy Technology Center announces that pursuant to 10 CFR 600.7(b)(2)(i) criteria (B), it intends to make a Non-Competitive Financial Assistance (Grant) Award to the Virginia Polytechnic Institute and State University for a workshop entitled "Workshop on High-Efficiency Fine Coal Preparation". Although the workshop would be organized and conducted by the grantee using its own funds or those donated by third parties, DOE support of the workshop will enhance the public benefits to be derived, and the DOE knows of no other entity which is conducting or is planning to conduct such an activity.

SUPPLEMENTARY INFORMATION:

Awardee: Virginia Polytechnic Institute and State University.

Grant Number: DE–FG22–92PC92245.

Grant Value: $ 20,000, with DOE estimated funding of $5,000.

Scope: The objective of the grant project is to cofund the Workshop on High-Efficiency Fine Coal Preparation. The purpose of the workshop is to transfer information regarding recently developed technological advances that have potential for near-term application in the coal field. Technology transfer concerning high-efficiency coal preparation methods in particular will promote the coal industry's technical contribution toward achieving the environmental quality goals expressed in both the National Energy Strategy and recent amendments to the Clean Air Act. The primary benefit of this transaction accrues to the public interest in the form of substantial economic advantages associated with the stimulated use, in an environmentally acceptable manner, of the abundant supply of high-sulfur coals.

The grant is for an estimated total value of $20,000.00. The DOE share of funding for the workshop is estimated at $5,000.00.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–118, Pittsburgh, PA 15236, Attn: John R. Columbia, Telephone: AC 412/892–6219.

Dated: February 5, 1992.

Dale A. Siciliano,

Chief, Contracts Group I, Acquisition and Assistance Division, Pittsburgh Energy Technology Center.

[FR Doc. 92–3508 Filed 2–12–92; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. No. 96–511, 44 U.S.C. 3501 *et seq.*).

The entry contains the following information: (1) The sponsor of the collection; (2) Collection number; (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before March 16, 1992. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 254–5348.

SUPPLEMENTARY INFROMATION: The energy information collection submitted to OMB for review was:

1. Energy Information Administration.
2. EIA–819.
3. 1905–0183.
4. Monthly Oxygenate Telephone Report.
5. Extension.
6. Monthly.
7. Mandatory.
8. Businesses or other for-profit; Federal agencies or employees.
9. 89 respondents.
10. 12 responses.
11. .50 hour per response.
12. 534 hours.
13. This collection will be used to measure the availability of oxygenates in 1992 which can be used to produce finished motor gasoline that meets the Clean Air Act of 1990 requirements. This data will be used by the Administration, the Congress, the energy industry, energy analysts, and other interested parties to better understand and assess the availability of oxygenates.

Statutory Authority

Sec. 5(a), 5(b), 13(b), and 52, Pub. L. No. 93–275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, February 6, 1992.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration

[FR. Doc. 92-3513 Filed 2-12-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EL85-19-118 and EL85-19-119]

Nooksack River Basin, WA, Skagit River Basin, WA; Intent to Prepare Separate Environmental Impact Statements and Conduct Scoping Meetings

February 6, 1992.

The staff of the Federal Energy Regulatory Commission (Commission) has determined that licensing 17 proposed hydroelectric power projects in the Nooksack and Skagit River Basins, listed below, would constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 and the Commission's regulations. Therefore, the staff will prepare separate environmental impact statements (EIS) for the Nooksack and Skagit River Basins.

Skagit River Basin Projects

Thunder Creek Project No. 3913
Rocky Creek Project No. 4376
Diobsud Creek Project No. 4437
Boulder Creek Project No. 6984
Jordan Creek Project No. 9787
Irene Creek Project No. 10100
Jackman Creek Project No. 10269
Rocky Creek Project No. 10311
Anderson Creek Project No. 10416

Nooksack River Basin Projects

Nooksack Falls Project No. 3721
Boulder Creek Project No. 4270
Deadhorse Creek Project No. 4282
Canyon Creek Project No. 4312
Wells Creek Project No. 4628
Glacier Creek Project No. 4738
Canyon Lake Project No. 9231
Clearwater Creek Project No. 10952

The staff's EIS's will objectively consider both site specific and cumulative environmental impacts of the projects and reasonable alternatives, and will include an economic, financial, and engineering analysis.

Scoping Meetings

The major issues to be evaluated in these EIS's will be discussed at two scoping meetings, both scheduled to be held on Wednesday, February 26, 1992. Prior to this date, a scoping document (Scoping Document I) will be mailed to all recipients of this notice; copies will also be available at the scoping meetings. Scoping Document I will be subsequently revised to reflect any new information provided at the scoping meetings (Scoping Document II), which will be mailed to all parties, interested agencies, Indian tribes, and individuals.

All interested individuals, organizations, Indian tribes, and agencies are invited to attend the scoping meetings and assist staff in identifying the scope of environmental issues that should be analyzed in the EIS's. Individuals presenting statements for the record will be asked to identify themselves and indicate the entity they represent.

The first scoping meeting will be held from 9:30 a.m. to 12:30 p.m. at the Washington Department of Wildlife, Region 4 Office conference room, 16018 Mill Creek Boulevard, Mill Creek, Washington 98012. This meeting will focus on resource agency concerns. The second meeting will be held from 7 p.m. to 10 p.m. at the Skagit County Administration Building Hearing rooms B and C, 700 South Second Street, Mount Vernon, Washington 98273. This meeting is primarily designed for public input.

Objectives

At the scoping meetings, the staff will:

(1) Present environmental issues that are identified for coverage in the EIS;

(2) Receive input from meeting participants on the issues presented;

(3) Clarify the significance of issues;

(4) Identify any additional issues that need treatment in the EIS; and

(5) Identify those issues that do not merit treatment in the EIS.

Procedures

Both scoping meetings will be recorded by a stenographer and all statements (oral or written) will become part of the Commission's public record for Docket No. EL85-19-118 and EL85-19-119. Interested persons who are unable to attend, or do not choose to speak at the scoping meetings, may submit written statements for inclusion in the public record. All written comments must be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, until March 31, 1992.

All written correspondence should clearly show on the first page of each document one of the following captions: Nooksack River Basin Docket No. EL-85-19-118 or the Skagit River Basin Docket No. EL85-19-119. If a single letter or other piece of correspondence includes information about both basins, the commentor should separate the information and identify the information by river basin.

Further, parties are reminded of the Commission's Rules of Practice and Procedure, requiring parties filing documents about specific project(s) with the Commission, to serve a copy of the document on each person whose name is on the official service list for that specific project(s).

For further information, please contact Tom Dean at (202) 219-2778 about projects located in the Nooksack River Basin, and Lee Emery at (202) 219-2779 about projects located in the Skagit River Basin.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3416 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP92-4-000; FERC No. JD92-02504T]

Railroad Commission of Texas, Tight Formation Determination; Texas-15 Addition 4; Preliminary Finding

February 6, 1992.

On December 23, 1991, the Railroad Commission of Texas (Texas) notified the Commission that the W, X, Y and Z Sands within the Lower Vicksburg Formation underlying portions of Hidalgo and Starr Counties, Texas, qualify as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). For the reasons discussed below, the Commission issues this preliminary finding that Texas' determination is not supported by substantial evidence.

Texas' Determination

On December 23, 1991, Texas submitted an affirmative tight formation area determination for the W, X, Y and Z Sands in the Lower Vicksburg Formation, in portions of Hidalgo and Starr Counties, Texas.[1] The determination covers approximately 20,000 acres in the Javelina-East McCook area.[2] The W, X, Y and Z Sand intervals are four separate sand "packages". Each sand package is between 500 and 1,500 feet thick. The shallowest package is the W Sand and the deepest is the Z Sand. The

[1] Texas Docket No. 4-97,109. Shell Western Exploration & Production requested Texas to designate the recommended area as a tight formation.

[2] The determination covers an irregular H-shaped area. The western portion consists of the Boston Texas Land and Trust (BTLT) lease, which accounts for approximately 10,732 acres in the recommended area. The central portion consists of roughly 4,631 acres. The eastern portion consists of approximately 4,637 acres.

recommended surface area is the same for each sand package.[3]

The record on which Texas based its determination shows that 64 Vicksburg wells have been drilled in the recommended area since 1956 and that 41 of these wells have interpretable pre-stimulation or post-stimulation pressure build-up data. Of the 41 data wells, 8 are in the W Sand, 20 are in the X Sand, 10 are in the Y Sand, and 3 are in the Z Sand. Texas analyzed each sand package independently and concluded that each sand satisfies the Commission's 0.1 millidarcy (md) permeability guideline in § 271.703(c)(2)(i)(A) of the regulations throughout the entire recommended area. Texas also concluded that each sand meets the applicable maximum allowable flow rate under § 271.703(c)(2)(i)(B) of the regulations over the entire recommended area.

Discussion

Section 271.703(c)(2)(i)(A) of the Commission's regulations establishes the guidelines that a formation must meet to be designated as a tight formation. Among other things, the estimated average *in situ* gas permeability, throughout the pay section, must be expected to be 0.1 md or less. Our review shows that the average permeability for the W, X and Y Sands, on an arithmetic basis, exceeds the 0.1 md guideline.

Our review also shows that there are significant portions of the recommended area that do not contain any well data showing that the formation meets the guidelines.[4] For example, there are only three data wells in the Z Sand and all three wells are located on a lease which covers approximately 3% of the recommended area. In addition, there is no well data from the Boston Texas Land and Trust (BTLT) lease, which covers more than half of the recommended area, to support Texas' determination for the Y and Z Sands. Additionally, 5 of the 8 data wells in the W Sand are concentrated in a rectangular area roughly 1,200 acres in size, located in the central portion of the BTLT lease.[5]

[3] Texas' notice states that no well is presently completed in or producing from more than one of the sand packages.

[4] Order No. 99 (FERC Statutes and Regulations, Regulations Preambles, 1977–1981, ¶ 30,183) states that portions of formations that do not meet the tight formation guidelines should be excluded from a jurisdictional agency's recommendation.

[5] Section 271.703(c)(4)(iii) of the regulations requires a jurisdictional agency to include a map which clearly locates wells which are currently producing from the determined tight formation, or a list locating all wells which are currently producing natural gas from the determined tight formation. Although the maps and well lists in the notice do not correlate all of the data wells to a location on a map in the notice, the Commission believes that it has properly located all of the data wells except for the Daugherty #1 well.

Finally, Texas' determination does not contain all the information required by the regulations. Section 271.703(c)(4)(ii) of the Commission's regulations requires the notice to contain engineering data and calculations to support the jurisdictional agency's conclusions that the formation meets the Commission's guidelines. Texas' notice does not include the individual well flow rate data and corresponding calculations which resulted in the average flow rates for each sand package, nor does it identify the source of the data used to support the average flow rates it calculated.

Based on the above, the Commission hereby makes a preliminary finding, under § 275.202(a) of the regulations, that the determination is not supported by substantial evidence in the record upon which it was made. Texas or the applicant may, within 30 days from the date of this preliminary finding, submit written comments and request an informal conference with the Commission pursuant to § 275.202(f) of the regulations. A final Commission order will be issued within 120 days after the issuance of this preliminary finding.

By direction of the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92–3412 Filed 2–12–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA92–1–31–000]

Arkla Energy Resources; Annual PGA Filing

February 6, 1992.

Take notice that on January 31, 1992, Arkla Energy Resources (AER), a division of Arkla, Inc., tendered for filing the following revised tariff sheets to become effective April 1, 1992:

Rate Schedule No. X–26

Original Volume No. 3
Seventeenth Revised Sheet No. 185.1

Rate Schedule No. G–2

Second Revised Volume No. 1
Ninth Revised Sheet No. 11

Rate Schedule No. CD

Second Revised Volume No. 1
Ninth Revised Sheet No. 16

AER states that the tariff sheets reflect AER's fourth annual PGA filing made pursuant to the Commission's rules under Order Nos. 483 and 483–A.

AER states that the proposed changes reflect an increase in AER's system cost of $49,311 and would increase its revenue from jurisdictional sales and service by $69 for the PGA period of April, May and June 1992 as adjusted.

AER states that copies of the filing is being mailed to the jurisdictional customers served under AER's Rate Schedule Nos. X–26 and G–2 and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 24, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92–3420 Filed 2–12–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. EL92–14–000 and EC92–10–000]

Beaver Michigan Associates; Notice of Filing

February 6, 1992.

Take notice that on January 31, 1992, as amended on February 6, 1992, Beaver Michigan Associates Limited Partnership ("BMA") tendered for filing with the Federal Energy Regulatory Commission ("Commission") a petition for declaratory order disclaiming jurisdiction and a request for authorization pursuant to sections 203 and 204 of the Federal Power Act, 16 U.S.C. leaseback of a qualifying small power production facility located in Cadillac, Michigan (the "Facility"). See 37 FERC ¶ 62,001 (1986).

BMA seeks Commission authorization under sections 203 and 204 of the Federal Power Act in connection with a sale and leaseback transaction pursuant to which BMA will sell the facility to an Owner Trustee for the benefit of General Electric Capital Corporation ("GE Capital"), and simultaneously lease back the Facility from the Owner

Trustee. The Owner Trustee will be a bank or trust company acting as trustee for the benefit of GE Capital, who will be the Owner Participant.

BMA also requests the Commission (i) disclaim jurisdiction over GE Capital and the Owner Trustee as public utilities, (ii) confirm the continued applicability of BMA's supplemental rate schedule and (iii) confirm that the change in ownership of the Facility pursuant to the proposed sale and leaseback transaction will not result in the loss of the Facility's qualifying facility status.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 6, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3421 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP92-44-001 and RP89-98-015]

Colorado Interstate Gas Co.; Compliance Filing

February 6, 1992.

Take Notice that Colorado Interstate Gas Company ("CIG") on January 30, 1992, tendered for filing the following tariff sheet to revise its FERC Gas Tariff, Original Volume No. 1:

First Revised Sheet No. 61G11.2

CIG states that the above-referenced traiff sheet is being filed in compliance with the Commission's Orders issued in these dockets to reflect the election of alternate Amortization Periods or lump-sum payments for recovery of the respective Buyout-Buydown Obligations in Docket No. RP92-44-000 for CIG's affected customers.

CIG states that the provision to allow affected customers the option of electing alternate Amortization Periods is contained in CIG's Volume No. 1 Tariff and was approved and accepted by the Commission's Order of March 31, 1989, in Docket No. RP89-98-000.

CIG states that copies of the filing were served upon all of the parties to these proceedings and affected state commissions as well as all of CIG's firm sales customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3422 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-326-000]

Granite State Gas Transmission, Inc.; Application

February 6, 1992.

Take notice that on January 31, 1992, Granite State Gas Transmission, Inc., (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581, filed an abbreviated application pursuant to sections 7(b) and 7(c) of the Natural Gas Act and part 157 of the Commission's Regulations, for a certificate of public convenience and necessity to construct and operate approximately 1.6 miles of 12-inch diameter replacement mainline and an order authorizing the abandonment of approximately 2.5 miles of existing 6 and 8-inch diameter mainline in Portsmouth and Newington, Rockingham County, New Hampshire, all as more fully set forth in the application on file with the Commission and open to public inspection.

According to Granite State, the sections of its mainline that will be abandoned are located in the path of a major highway reconstruction project on the Spaulding Turnpike in Portsmouth and Newington that will be undertaken by the New Hampshire Department of Transportation (NHDOT), beginning in March 1992. Granite State further states that it will replace the abandoned sections of pipeline with a new 12-inch line in a right-of-way adjacent to the Turnpike that will be provided by the NHDOT in connection with the highway reconstruction. It is further stated that existing delivery points to the Pease Air Force Base and Northern Utilities, Inc. on the sections of pipeline that will be abandoned will be connected to the replacement 12-inch pipeline and no abandonment or discontinuance of natural gas service will result from the relocation of the facilities. According to Granite State, the estimated cost of the proposed construction is $1,006,100 and the construction is required to commence in April 1992. Granite State is proposing to finance the construction by internal sources, augmented by its existing lines of credit. The permanent capital requirements will be included in Granite State's ongoing financing program.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 21, 1992, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate, and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Unde the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Granite State to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3419 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES92-29-000]

Gulf States Utilities Co., Application

February 6, 1992.

Take notice that on January 30, 1992, Gulf States Utilities Company (Gulf States) filed an application with the Federal Energy Regulatory Commission under section 204 of the Federal Power Act requesting authority to issue not more than $600 million principal amount of First Mortgage Bonds. Also, Gulf States requests exemption from the Commission's competitive bidding regulations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before February 27, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3423 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-1-5-000]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

February 6, 1992.

Take notice that on January 31, 1992, Midwestern Gas Transmission Company (Midwestern) filed the following revised tariff sheets to First Revised Volume No. 1 of its FERC Gas Tariff to be effective April 1, 1992:

Thirty-First Revised Sheet No. 5

Midwestern states that the purpose of this revision is to change the rates on Midwestern's system through the Annual Purchased Gas Adjustment (PGA) filing pursuant to Section 16 of the General Terms and Conditions of Midwestern's Tariff.

Midwestern states that the Current Purchased Gas Cost Rate Adjustments reflected on Revised Sheet No. 5 consist of $(.3552) per dekatherm adjustment to the gas rate, and a $(.65) per dekatherm adjustment to the demand rate.

Midwestern states that the revisions also reflect a $.0456 per dekatherm surcharge adjustment to the gas rates and a $(.01) per dekatherm surcharge adjustment to the demand rate for amortizing the Unrecovered Gas Cost Account.

Midwestern states that all copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Captiol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 24, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Waston, Jr.,

Acting Secretary.

[FR Doc 92-3424 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-1-37-000]

Northwest Pipeline Corp.; Annual Filing Pursuant to Purchased Gas Cost Adjustment

February 6, 1992.

Take notice that on January 31, 1992, Northwest Pipeline Corporation (Northwest) tendered for filing the following tariff sheets as part of its FERC Gas Tariff, Second Revised Volume No. 1, with a proposed effective date of April 1, 1992:

Seventeenth Revised Sheet No. 10
Sixteenth Revised Sheet No. 11

Northwest states that the purpose of the filing is to (1) restate the approved January 1, 1992 PGA rates, to be effective April 1, 1992 without change; and (2) account for the changes in unrecovered purchased gas costs since Northwest's PGA filing dated January 30, 1991.

Northwest states that copies of its filing were served upon each person designated in the official service list and upon all of jurisdictional sales customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 24, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3425 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ92-2-28-000 and TA92-1-28-001]

Panhandle Eastern Pipe Line Co., Proposed Changes in FERC Gas Tariff

February 6, 1992.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on February 4, 1992, tendered for filing the following revised tariff sheets listed to its FERC Gas Tariff, Original Volume No. 1:

Sub 4th/Eighty-Eighth/Sheet No. 3-A
Sub 4th/Second Revised Sheet No. 3-A.1
Sub 4th/Sixty-Fifth/No. 3-B
Sub 4th/Twelfth/Sheet No. 3-B.1

The proposed effective date of these tariff sheets is March 1, 1992.

Panhandle states that these revised tariff sheets filed herewith reflect: a decrease of ($0.22) for Panhandle's D1 demand rate and (0.88¢) per December 31, 1991 in Docket No. TA92-1-28-000.

Panhandle further states the above referenced tariff sheets are being filed in accordance with § 154.305(c)(4) of the Commission's Regulations and pursuant to sections 18.1, 18.2 and 18.4 of Panhandle's FERC Gas Tariff, Original Volume No. 1 to reflect the changes in Panhandle's jurisdictional sales rates effective March 1, 1992.

Panhandle states that copies of its filing have been served on all jurisdictional sales customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426, in accordance with such motions 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3426 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-1-7-000]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

February 6, 1992.

Take notice that on January 31, 1992, Southern Natural Gas Company (Southern) tendered for filing the following revised sheets to its FERC Gas Tariff, Six Revised Volume No. 1, with a proposed effective date of April 1, 1992:

One Hundred Thirteenth Revised Sheet No. 4A
Twenty Sixth Revised Sheet No. 4B
Thirty Second Revised Sheet No. 4J

Southern states that the proposed tariff sheets reflect the following revisions to the Current Adjustment and Surcharge Adjustment components of Southern's rates:

Current Adjustment

1. A decrease of $.615 per Mcf at 1,000 Btu in the commodity component.
2. A decrease of $.005 per Mcf at 1,000 Btu in the demand component for Zone 1, an increase of $.004 per Mcf at 1,000 Btu in the demand component for Zone 2, and a decrease of $.016 per Mcf at 1,000 Btu in the demand component for Zone 3.

Surcharge Adjustment

1. An increase of $.044 per Mcf at 1,000 Btu in the commodity component.
2. An increase of $.134 per Mcf at 1,000 Btu in the demand component.

Southern states that copies of its filing were served upon all of the Southern's jurisdictional purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 24, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3415 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-203-005]

Tennessee Gas Pipeline Co.; Tariff Filing

February 6, 1992.

Take notice that on January 31, 1992, Tennessee Gas Pipeline Company (Tennessee) filed changes in its FERC Gas Tariff pursuant to the Commission's August 30, 1991 order in the captioned proceeding and to make certain other changes. The following revised tariff sheets are to be effective February 1, 1992:

Third Revised Volume No. 1

Substitute Sixth Revised Sheet No. 20
Substitute Original Sheet No. 20A
Substitute Sixth Revised Sheet No. 21
Substitute Original Sheet No. 21A
Substitute Sixth Revised Sheet No. 22
Substitute Fourth Revised Sheet No. 23
Substitute Third Revised Sheet No. 24
Substitute Original Sheet No. 24A
Substitute Fourth Revised Sheet No. 25
Substitute Original Sheet No. 25A
Substitute Fourth Revised Sheet No. 26
Substitute Original Sheet No. 26A
Second Revised Sheet No. 27
Substitute Second Revised Sheet No. 28
Substitute Original Sheet No. 28A
Original Sheet No. 28B
Sixth Revised Sheet No. 30
First Revised Sheet Nos. 57, 63, 69, 71, 74, 78-82, 86-90, 92
Second Revised Sheet Nos. 97, 101, 102
Substitute First Revised Sheet No. 106
First Revised Sheet No. 111
Second Revised Sheet Nos. 116, 121
First Revised Sheet Nos. 130, 132
Substitute First Revised Sheet No. 133
First Revised Sheet No. 138
Substitute First Revised Sheet No. 141
First Revised Sheet Nos. 142, 222, 231-233, 246-252
Fourth Revised Sheet No. 156
Second Revised Sheet No. 253
Substitute First Revised Sheet No. 253A
First Revised Sheet Nos. 268, 272-274, 467

Original Volume No. 2

Third Substitute Twenty-Fifth Revised Sheet No. 5
Third Substitute Original Sheet No. 5A
Substitute Twenty-Fourth Revised Sheet No. 6
Substitute Original Sheet No. 6A
Substitute Eighth Revised Sheet No. 7
Substitute Original Sheet No. 7A
Substitute Ninth Revised Sheet No. 8
Substitute Original Sheet No. 8A
Substitute Eighth Revised Sheet No. 9
Substitute Original Sheet No. 9A
Thirteenth Revised Sheet No. 10

Tennessee states that the revised tariff sheets reflect the following changes:

1. Elimination of the costs of facilities not in service by January 31, 1992;
2. Contract demand levels as of January 31, 1992;
3. Removal of tariff language with respect to Tennessee's proposed reconciliation surcharge, proposed lien on customer-owned gas, and proposed Rate Schedules FT-B and SS-S;
4. Reversal of a test period adjustment to working capital that was made to reflect the transfer of system storage to AQL-restricted customers pursuant to the Cosmic Settlement, which is not yet effective and is pending before the Commission;
5. Correction to Tennessee's filed rates related to FASB 106;
6. Classification of Canadian demand charges according to the Enhanced Fixed Variable methodology;
7. Revised rates under Rate Schedule HU;
8. General reduction in Tennessee's filed rates in Docket No. RP91-203; and
9. Revised rates for Rate Schedule NET-EU and Tennessee's systemwide rates to correct an error in the calculation of the Segment U rate.

Tennessee further states that the revised tariff sheets also reflect the (1) Surcharge for Amortizing the Unrecovered Purchased Gas Cost Account, (2) Current Purchased Cost Rate, (3) GRI Rate Adjustment, and (4) Annual Charge Adjustment, as shown in Tennessee's November 1, 1991 filing in Docket No. TA92-1-9, effective on January 1, 1991. Tennessee also states that the revised tariff sheets reflect the Transition Cost Rate Surcharges contained in Tennessee's November 29, 1991 filing in Docket No. RP92-51.

Tennessee states that copies of the filing have been mailed to all parties on the official service list in this proceeding, affected customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 202426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

FR Doc 92-3417 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-203-006]

Tennessee Gas Pipeline Co.; Tariff Filing

February 6, 1992.

Take notice that on February 4, 1992, Tennessee Gas Pipeline Company (Tennessee) filed Second Substitute Sixth Revised Sheet No. 22 to Third Revised Volume No. 1 of its FERC Gas Tariff to be effective February 1, 1992.

Tennessee states that the purpose of the tariff filing is to correct a clerical error that mixed up the Base Tariff Rates among Tennessee's Zoned Rate Schedules.

Tennessee states that copies of the filing have been mailed to all affected customers and to all parties on the official service list in Docket No. RP91-203.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3427 Filed 2-12-92; 8:45 am]

BILLING CODE, 6717-01-M

[Docket No. SA92-2-000]

TOMCAT, a Texas Intrastate Pipeline; Petition for Staff Adjustment Under Section 502(c)

February 8, 1992

Take notice that on January 29, 1992, TOMCAT, a Texas Intrastate Pipeline, filed with the Commission a petition for adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) and part 385 (subpart K) of the Commission's regulations to permit TOMCAT to charge its existing intrastate transportation rate for comparable transportation services performed pursuant to section 311 of the NGPA.

In support of its petition, TOMCAT states that it currently provides intrastate transportation services for gas consumption within the State of Texas. TOMCAT's tariffs for such services are on file with the Texas Commission. TOMCAT also provides transportation services pursuant to section 311(a)(2) of the NGPA. TOMCAT's current rate for section 311(a)(2) transportation was established pursuant to § 284.123(b)(2) in a settlement approved by the Commission on June 21, 1989. This settlement required TOMCAT to justify its rate on or before January 31, 1992. Concurrent with this filing, TOMCAT is filing a motion requesting that the Commission suspend the January 31, 1992 filing date until after the Commission acts on this adjustment application. TOMCAT states that in the event that the Commission grants this adjustment application, then a rate filing with the Commission will not be required. TOMCAT here seeks an adjustment to allow it to use an existing tariff currently on file with the Texas Commission as the fair and equitable rate for transportation services to be performed under section 311 of the NGPA.

Any person desiring to be heard or protest this petition should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 20, 1992. All protests filed will be considered, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules. Copies of this petition are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3428 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-103-000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

February 6, 1992.

Take notice that Transwestern Pipeline Company (Transwestern) on February 4, 1992 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to become effective April 1, 1992:

9th Revised Sheet No. 5
Original Sheet No. 5D(vii)
1st Revised Sheet No. 5E(iv)
58th Revised Sheet No. 6
4th Revised Sheet No. 6C
20th Revised Sheet No. 37
12th Revised Sheet No. 89
12th Revised Sheet No. 90

Transwestern states that the tariff sheets are being filed to modify its take-or-pay, buy-out and buy-down mechanism (TCR mechanism) in order to recover certain take-or-pay, buy-out, buy-down, and contract reformation costs (Transition Costs) which amounts it paid subsequent to the implementation date of its Gas Inventory Charge (GIC), October 1, 1989, and which do not qualify under the Litigation Exception provision of its tariff.

Transwestern states that it has paid an additional $2,149,184.00 in settlement costs (TCR Amount Ten) and is revising certain tariff sheets and requesting authority to begin recovery of a portion of such amounts under the tariff sheets. Transwestern notes that it has not previously filed for recovery of such amounts.

Transwestern states that copies of the filing were served on its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3418 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2113-022—Wisconsin/Michigan]

Wisconsin Valley Improvement Co.; Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

February 6, 1992.

The license for the Wisconsin Valley Project No. 2113, located on the Wisconsin River and its tributaries, Vilas, Oneida, Forest, Marathon, and Lincoln Counties, Wisconsin, and Gogebic County, Michigan, expires on July 31, 1993. The statutory deadline for filing an application for new license was July 31, 1991. An application for new license has been filed as follows:

Project No.	Applicant	Contact
2113-022	Wisconsin Valley Improvement Company, 2301 North Third Street, Wausau, WI 54401.	Mr. Robert W. Gall, Wisconsin Valley Improvement Company, 2301 North Third Street, Wausau, WI 54401, 715 848-2976.

The Commission's deadline for applicant for filing a final amendment, if any, to its application is March 1, 1992.

The following is an approximate schedule and procedures that will be followed in processing the application:

Date	Action
Mar. 15, 1992.....	Commission notifies applicant that its application has been accepted.
Mar. 25, 1992.....	Commission issues public notice of the accepted application establishing dates for filing motions to intervene and protests.

Upon receipt of all additional information and the information filed in response to the public notice of the acceptance of the application, the Commission will evaluate the application in accordance with applicable statutory requirements and take appropriate action on the application.

Any questions concerning this notice should be directed to Michael Dees at 202-219-2807.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3414 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 91-111-NG]

Bridgegas U.S.A., Inc., Application To Export Natural Gas to Mexico

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossel Energy (FE) of the Department of Energy (DOE) gives notice of receipt on December 20, 1991, of an application filed by BridgeGas U.S.A., Inc. (BridgeGas) requesting blanket authorization to export from the United States to Mexico up to 98.6 Bcf of natural gas on a short-term or spot market basis over a two-year period beginning with the date of first delivery. BridgeGas states that it will advise the DOE of the date of first delivery and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the National Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, March 16, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, SW., Washignton, DC 20585.

FOR FURTHER INFORMATION:

Larine A. Moore, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, 1000 Independence Avenue, SW., Washignton, DC 20585, (202) 586-9478

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: BridgeGas is a Deleware corporation with its principal place of business in Dallas, Texas. According to BridgeGas, the gas to be exported would be purchased from U.S. producers on the spot market and would be surplus to domestic need. BridgeGas requests blanket export authorization to make short-term and spot market sales with terms of up to two years. All sales would result from arms-length negotiations and prices would be determined by market conditions. BridgeGas intends to use existing pipeline facilities to export this gas.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204-111 and 0204-127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natual gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA Compliance:

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq., requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests,

motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the paraties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of BridgeGas's application is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on February 6, 1992

Anthony J. Como

Director, Office of Coal and Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR DOC. 92–3509 Filed 2–12–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–105–NG]

Entrade Gas Co., Application To Export Natural Gas to Canada and to Mexico

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to export natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on December 6, 1991, of an application filed by EnTrade Corporation (EnTrade) requesting blanket authorization to export up to 150,000 Mcf of natural gas per day to Canada and up to 150,000 Mcf of natural gas per day to Mexico for a cumulative maximum of 100 Bcf and 100 Bcf, respectively, on a short-term or spot market basis over a two-year period beginning with the date of first deliveries. EnTrade states that it will advise the DOE of the dates of first delivery and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, March 16, 1992.

ADDRESS: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

Larine A. Moore, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: EnTrade, a Kentucky corporation, is an independent natural gas marketer with its principal place of business in Louisville, Kentucky. According to EnTrade, the gas to be exported would be purchased from U.S. producers on the spot market and would be surplus to domestic need. Entrade requests authorization to export for its own account as well as for the account of U.S. suppliers and Canadian and Mexican purchasers. All sales would result from arms-length negotiations and prices would be determined by market conditions. EnTrade intends to use existing U.S. pipeline facilities which interconnect with Canadian and Mexican facilities at various points on the U.S./Canadian and U.S./Mexican borders for the transporation of this gas.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this arrangement bear the burden of overcoming this assertion.

All persons should be aware that DOE, if it grants this application, may authorize aggregate term volumes rather than daily volumes, consistent with past practice and in order to maximize operating flexibility.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq., requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not

parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of EnTrade's application is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on February 6, 1992.

Anthony J. Como,

Director, Office of Coal and Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–3510 Filed 2–12–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–119–NG]

PanCanadian Petroleum Co.; Application for Blanket Authorization to Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to import natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed on December 27, 1991, and amended on January 14, 1992, by PanCanadian Petroleum Company (PanCanadian) requesting blanket authorization to import up to 146,000 MMBtu/d of Canadian natural gas to United States' markets over a term of two years, beginning on date of first delivery. PanCanadian intends to use existing facilities to import the gas and to file quarterly reports with FE giving the details of each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, March 16, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

Larine A. Moore, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–53, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478.

Dianne Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–14, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORAMTION: PanCanadian is a corporation organized under the laws of the State of Delaware, owned by PanCanadian Petroleum Limited, a major producer of hydrocarbons in Western Canada, which is owned by Canadian Pacific Enterprises Limited of Calgary, Alberta, Canada. PanCanadian is a natural resources company with oil and gas interests in the United States.

PanCanadian proposes to import natural gas purchased from a variety of Canadian suppliers, for sale to various customers in the United States, including industrial customers, local distribution companies, municipalities and other end-users, on a short-term or spot market basis. PanCanadian proposes to import gas for its own account or act as agent for Canadian suppliers and/or U.S. purchasers. PanCanadian states that the specific terms of each transaction, including the price, would be responsive to competitive market conditions.

The decision on the application for import authority will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that the proposed imports will be competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

All parties should be aware that if DOE approves this import, it may designate a total term volume rather than the daily limit requested in order to provide PanCanadian with maximum operating flexibility.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be

taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true diclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of PanCanadian's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 7, 1992.

Anthony J. Como,

Director, Office of Coal and Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–3511 Filed 2–12–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–91–NG]

Washington Natural Gas Co.; Application To Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for long term authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on October 30, 1991, of an application filed by Washington Natural Gas Company (Washington Natural) requesting authorization to import from Canada up to 7,500 MMBtu per day (7,212 Mcf/d) of natural gas through October 31, 1992, and up to 10,000 MMBtu per day (9,615 Mcf/d) from November 1, 1992, through October 31, 2002. The gas would be purchased on a firm basis under the terms of a gas sales agreement with Canadian Hydrocarbons Marketing Inc. (CHMI), and would be imported at the existing interconnection between Westcoast Energy Inc. (Westcoast) and Northwest Pipeline Corporation (Northwest) at the international border near Sumas, Washington.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., Eastern time, March 16, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

Peter Lagiovane, Office of Fuels Program, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–8116

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Washington Natural, a Washington corporation with its principal place of business in Seattle, is a natural gas distribution company serving approximately 380,000 customers in its five county service area in the State of Washington. Prior to July 1988, Washington Natural purchased almost all of its firm supply of natural gas from Northwest. Subsequently, Northwest became an open-access carrier and Washington Natural converted approximately 157,000 Mcf per day of firm supply service to firm transportation service. As a result of Washington Natural's reduction in firm domestic and Canadian purchase commitments with Northwest under the pipeline's open access program, and Washington Natural's growing market requirements, the company maintains that it must contract for approximately 108,000 MMBtu per day of firm gas supply from various suppliers. According to Washington Natural, the 11-year contract with CHMI is an important component of that needed firm gas supply.

The Washington Natural/CHMI gas sales agreement dated February 1, 1991, provides for a firm daily volume of up to 7,500 MMBtu per day (7,212 Mcf/d) during the period November 1, 1991, to October 31, 1992, and 10,000 MMBtu per day (9,615 Mcf/d) from November 1, 1992, through October 31, 2002. We note that the gas sales agreement also provided for a firm daily volume of up to 5,000 MMBtu per day (4,808 Mcf/d) during the period February 1, 1991, through October 31, 1991, which gas was imported by Washington Natural under its blanket authorization issued in DOE/ERA Opinion and Order No. 310, as extended in DOE/FE Opinion and Order No. 535. See 1 FE Para. 70,219, and Para. 70,483, respectively.

The contract price that Washington Natural will pay to CHMI consists of four components: the Westcoast demand charge, a commodity charge, a fuel gas charge, and a reservation fee. The monthly demand component is equal to the cost of transportation of the gas on the Westcoast system for delivery of gas at the international border near Sumas, Washington, and is the aggregate of the Westcoast firm service gathering, treatment, processing, liquids recovery, and transportation charges as approved by Canadian regulatory authorities.

The commodity charge component of the price is set on an annual basis, effective November 1 of each year. Under the contract, the initial commodity charge was $1.16 per MMBtu for the period February 1, 1991, through October 31, 1991. Beginning November 1, 1991, through October 31, 1992, the commodity charge is $1.22 per MMBtu. If Washington Natural and CHMI cannot agree on a mutually acceptable

commodity price, either party may request arbitration.

The fuel charge is determined by multiplying the fuel gas volume by the gas commodity charge. The reservation fee through October 31, 1992, would be $.0915 per MMBtu. The reservation fee from November 1, 1992, to the end of the term of the gas sales agreement will be an amount equal to 15 percent of the gas commodity charge in effect from time to time.

Based on the foregoing contractual provisions, the price at the U.S./Canadian border under this contract, at 100% load factor, as of January 1, 1992, is $1.78 MMBtu.

There is no requirement for Washington Natural to purchase a minimum quantity of gas. Sales would be arranged on a monthly basis, with Washington Natural notifying CHMI of the amount it desires to purchase up to the daily maximum in the contract. Washington Natural has the right to change its designated purchase quantity for any day upon three days written notice to CHMI. Washington Natural is obligated to pay the demand charge whether any gas is taken or not.

CHMI will be responsible for arranging delivery of the gas on a firm basis through the facilities of Westcoast to the Sumas import point. At the delivery point the gas would enter the facilities of Northwest. Washington Natural would be responsible for arranging the transportation of the gas from the delivery point through the facilities of Northwest to Washington Natural's distribution system.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In a long-term arrangement such as this, other matters that will be considered in making a public interest determination include need for the gas and security of the long-term supply. Parties, especially those that may oppose this application, should comment on these issues as set forth in the policy guidelines regarding the requested import authority. The applicant asserts that imports made under the proposed arrangement would be competitive and otherwise consistent with DOE import policy. Parties opposing this arrangement bear the burden of overcoming this assertion.

All parties should be aware that if the requested import arrangement is approved, the authorization would be conditioned on the filing of quarterly reports indicating volumes imported and the purchase price in order to facilitate the monitoring of DOE's natural gas import program.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comment must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Washington Natural's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on February 6, 1992.

Anthony J. Como,

Director, Office of Coal and Electricity, Office of Fuels Programs, Fossil Energy.

[FR Doc. 92-3512 Filed 2-12-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Notice of Time Change for February 19-20 Meeting, and of a March 5 and 6 Meeting of the Coke Oven Batteries Advisory Committee

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting time change and of additional meeting.

SUMMARY: The National Emission Standards for Coke Oven Batteries Advisory Committee February 19 meeting will start at 9:30 a.m. instead of the previously announced 11 a.m. (57 FR 1730) It will still end at 6 p.m. The February 20 meeting will remain on the original schedule of starting at 8:30 a.m. and ending at 3 p.m. The Committee will meet again on March 5 and 6. The March 5 meeting will start at 9:30 a.m. and end at 6 p.m. The March 6 meeting will start at 8:30 a.m. and end at 3 p.m. The February meeting will be held at the Washington Court Hotel, 525 New Jersey Avenue NW., Washington, DC. The March meeting will be held at the Quality Hotel Capitol Hill, 415 New Jersey Avenue NW.

ADDRESSES: The Committee will meet at the Washington Court Hotel, 525 New

Jersey Avenue NW., Washington, DC 20001, [202] 628–2100, for the February 19 and 20 meeting and at the Quality Hotel Capitol Hill, 425 New Jersey Avenue NW., 20001, [202] 638–1616 for the March 5 and 6 meeting.

FOR FURTHER INFORMATION CONTACT: For information on substantive matters please contact Amanda Agnew, Office of Air Quality Planning and Standards [919] 541–5268. For information on administrative matters please contact the Committee's Facilitator, Phil Harter, at [202] 887–1033.

Dated: February 10, 1992.

Chris Kirtz,

Designated Federal Official Coke Oven Battery Advisory Committee.

[FR Doc. 92–3505 Filed 2–12–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4103–9]

Science Advisory Board; Indoor Air Quality and Total Human Exposure Committee; Open Meeting

February 24–25, 1992.

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Science Advisory Board's (SAB) Indoor Air Quality and Total Human Exposure Committee (IAQTHEC) will meet on February 24–25, 1992 at the Days Inn Crystal City Hotel, 2000 Jefferson Davis Highway, Arlington, Virginia 22202. The meeting will begin 9 a.m. on February 24th and 8:30 a.m. on February 25th. The meeting will end no later than 4 p.m. on February 25th. The meeting is open to the public and seating is on a first-come basis.

The purpose of the meeting is for the Committee to review the following issues for the Risk Assessment Forum: (1) Guidance for estimating exposure to volatile organic compounds (VOC) during showering, and (2) Regional guidance on assessment of health risks associated with gasoline vapors in buildings. The charge to the Committee is to address the usefulness of the guidance presented in these documents and whether it reflects the state of current knowledge. Copies of background materials on these issues are NOT available from the Science Advisory Board. For more information concerning these materials and their availability, please contact: Ms. Claire Stine, U.S. EPA, Risk Assessment Forum (RD–689), 401 M Street, SW., Washington, DC 20460, Telephone: (202) 260–6743.

The Committee will also conduct a Consultation with the Office of Health Research on the National Exposure Assessment Survey (NHEXAS). A Consultation is a public discussion held between Agency Staff and the Committee which helps the Agency focus future activities on an issue. A Consultation is not a review and a written record or response is not produced. Finally, if time permits, the Committee will receive briefings on other relevant indoor air or exposure issues.

For details concerning this meeting, including a draft agenda, please contact Mr. Robert Flaak, Assistant Staff Director, or Ms. Carolyn Osborne, Program Assistant, Science Advisory Board (A–101F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Telephone: (202) 260–6552 and FAX: (202) 260–7118. Members of the public who wish to make a brief oral presentation to the Committee must contact Mr. Flaak no later than Wednesday, February 19, 1992 in order to be included on the Agenda. Written statements of any length (at least 15 copies) may be provided to the Committee up until the meeting. The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of five minutes.

Dated: February 5, 1992.

Donald Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 92–3569 Filed 2–12–92; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Notice Agreement(s) Filed; Carribean Shipowners Association

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–010979–018

Title: Caribbean Shipowners Association.

Parties: Tropical Shipping & Construction Co., Ltd., Sea-Land Service, Inc. ("Sea-Land"), Trailer Marine Transport Corporation, Puerto Rico Maritime Shipping Authority ("PRMSA"), Seaboard Marine, Ltd., West Indies Shipping Corporation (WISCO), Tecmarine Lines, Inc., Bernuth Lines, Ltd., Interline Connection, Inc., Sea Barge Group, Inc. ("Sea Barge"), Kirk Line, Inc.

Synopsis: The proposed amendment would delete Sea-Land and Sea Barge as parties to the Agreement. It would reduce the scope of the Agreement by deleting service between Puerto Rico and Trinidad and Tobago. This former Agreement subtrade is now to be served under the provisions of the United States Atlantic & Gulf/Southeastern Caribbean Conference (FMC Agreement No. 202–007540).

Dated: February 7, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–3401 Filed 2–12–92; 8:45 am]

BILLING CODE 6730–01–M

[Agreement No. 212–011213–025]

Spain-Italy/Puerto Rico Island Pool Agreement; Erratum

The **Federal Register** notice of January 30, 1992 (57 FR 3630) stated that any party wishing to withdraw from the Agreement prior to June 30, 1992 was required to give notice of any intent to withdraw prior to January 14, 1992. The parties have revised their initial filing to state that any notice of withdrawal may be filed up to the effective date of Amendment No. 025 to the Agreement, March 2, 1992.

By Order of the Federal Maritime Commission.

Dated: February 7, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92–3400 Filed 2–12–92; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

[MH-92-04]

State Service Systems Improvement Through Consumer and Family Support Activities

INSTITUTE: National Institute of Mental Health, HHS.

ACTION: Notice of request for applications.

INTRODUCTION: The National Institute of Mental Health (NIMH) announces the availability of support for projects to demonstrate and evaluate service system improvement strategies that integrate consumers and family members into the planning and provision of mental health and support services at State and local levels. These grants will be made under the authority of section 520 of the Public Health Service (PHS) Act which authorizes funds for demonstrations of mental health services for individuals with severe and persistent mental disorders. This Request for Applications (RFA) is an updated reissuance of the FY 1991 RFA.

Purpose

Since its inception, the Community Support Program (CSP) of the National Institute of Mental Health (NIMH) has supported a variety of initiatives to enhance the involvement of consumers, family members, and other interested individuals in the public mental health system. To support the developing role of consumers, family members, and other individuals in service delivery and systems planning, NIMH is inviting proposals under this Request for Applications (RFA) for 3-year projects to demonstrate and evaluate service system improvement strategies that integrate consumers, family members, and other interested individuals into the planning and provision of mental health and support services at State and local levels. This effort has also been reinforced by objectives 6.8 and 6.12 in Healthly People 2000: National Health Promotion and Disease Prevention Objectives.[1]

[1] Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock Number 017-001-00474-0) or Healthy People 2000 (Summary Report; Stock Number 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC. 20402-9325 (Telephone 202-783-3238).

Activities supported in this effort must be relevant to the State's comprehensive mental health service plan submitted to NIMH for review in accordance with the requirements of title V of Public Law 99-660 and its subsequent amendments, and to the required involvement of consumers and family members on the Public Law 99-660 Advisory Councils.

Only mental health authorities in States and Territories that do not currently have a CSP State Service System Improvement Demonstration Grant, or are in the final year of a CSP State Service System Improvement Demonstration Grant for general community support development activities, are eligible to apply for these grants. Those States in the final year of a CSP grant which apply under this announcement must recognize that applications will only be accepted for totally new projects and cannot be extensions of current or previously funded projects. Each State and Territory may submit only one application.

NIMH is limiting potential applicants for demonstrations under this announcement to State mental health authorities for three reasons. First, because multiple agencies and providers are generally involved in implementing these demonstration initiatives, centralized State assistance is needed to assure that sufficient resources will be allocated to the project and appropriate staff and organizations will be involved. The State mental health authorities are best qualified to undertake this coordination function, since they oversee a wide range of mental health service providers. Prior NIMH demonstration efforts under section 504(f) of the PHS Act have shown the State mental health authorities to be effective in coordinating services.

Second, a related Federal initiative focused on the long-term mentally ill population, authorized under Public Law 99-660, The State Comprehensive Mental Health Service Plan Act of 1987 and its subsequent amendments, requires State governments to involve consumers and family members on Advisory Councils to assist in developing mental health plans. The projects supported through the grant will facilitate their involvement in the Public Law 99-660 planning process. Finally, if the consumer self-help and family support services stimulated through these grants are to survive beyond the grant period, it is probable that the main source of finding will come from State mental health authorities. Based on previous program experience, involving States in the demonstration projects greatly increases the probability that they will provide continuation funding for the services.

Population of Concern

The population of concern for CSP grants includes individuals 18 years and older with a severe and persistent mental disorder that seriously impairs functioning in the primary aspects of daily living such as interpersonal relations, living arrangements, or employment. Applicants should pay particular attention to the unique needs and special concerns of racial and ethnic minorities and women. It is Alcohol, Drug Abuse, and Mental Health Administration policy to include women and minorities in populations to be served, unless there is a compelling reason not to do so. The compelling reason may relate to circumstances such as disproportionate representation in terms of population size, age distribution, risk factors, incidence/prevalence, etc., of one gender or minority/majority group. Applications should include a description of the composition of the proposed population for the project by gender and racial/ethnic group.

In fiscal year 1992, NIMH has a priority on improving mental health services for American Indians and Alaskan Natives. Therefore, States with a significant population of American Indians or Alaskan Natives may request funds for specific activities for family members and consumers of these populations. (See Project Activities below.)

Program Goals

NIMH encourages the demonstration and evaluation of strategies that are directed toward the following programmatic goals:

- Integrating primary consumers, family members, and other interested individuals into State and local service delivery, systerm planning, decision-making, and research activities in order to develop mental health and support services that are considered responsive to consumer and family needs and preferences.
- Improving linkages between consumer self-help and family support groups and the formal community support, treatment, and rehabilitation service systems.
- Increasing the effectiveness of consumers, family members, and other individuals in identifying and fostering needed improvements in the mental health service system.
- Fostering participation of minority individuals and women in the planning

of consumer self-help and family support groups.

• Increasing opportunities for meaningful consumer employment within the formal mental health service system.

Project Activities

The following are examples of potentially supportable projects:

• Demonstration and evaluation of mechanisms to establish or maintain consumer self-help, family support activities, or volunteer programs.

• Assessing the effectiveness of providing training and educational opportunities for consumers, family members, and volunteers. (Examples of such training and education could include: leadership training; family education on mental illness and co-morbidity; providing information on the organization and delivery of mental health services in the applicant's State or Territory; volunteer training in companion programs; providing information on recovery and coping strategies; disseminating information on starting, operating, and evaluating self-help groups; and training families and consumers on the use of research to improve mental health service systems.)

• Demonstration and evaluation of approaches for recruiting and training consumers and family members to participate on State and local mental health planning councils, advisory committees, governing boards, and task forces, including approaches for assuring racial/ethnic, majority/minority representation proportional to the State/community population.

• Development and evaluation of programs to hire and train consumers for employment at the State or local level in various positions. (Such positions could include: peer support counselors, resource managers, residential staff, research assistants, data technicians, and computer programmers.)

• Evaluation of the impact of using consumers and family members to educate health providers on their needs in the mental health system.

• Statewide surveys to determine consumer and family needs and preferences with respect to mental and supportive services.

Application Procedures

All applicants should use Form PHS–5161–1 (revised 3/89) to request support for State service system improvement activities described in this RFA. The number and title of the announcement, "CSP State Systems Improvement, RFA MH–92–04," and the Catalog of Federal Domestic Assistance 93.125 should be typed in Item 10 on the face page of the application. The descriptive title of the application should be entered in Item 11, but should not exceed 56 typewritten spaces. Applications must be complete and contain all information needed for initial and Advisory Council review. No subsequent addenda will be accepted unless specifically requested by the Scientific Review Administrator of the review committee. No site visits will be made.

Application kits are available from: Grants Management Branch, National Institute of Mental Health, Parklawn Building, room 7C–15, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4414.

The signed original and two (2) permanent, legible copies of the completed application must be received (not postmarked) by the close of business May 18, 1992 at the latest.

Applications should be sent to: Division of Research Grants, National Institutes of Health, room 240, 5333 Westbard Avenue Bethesda, Maryland 20892.[1]

Important—The mailing envelope (including that provided by an express carrier) must be clearly marked "RFA MH 92–04." Failure to label the application could result in delayed processing such that is may not reach the review committee in time for review.

To facilitate the timely review of your application, it is also suggested that one additional copy of the application be sent directly to: Division of Extramural Activities, National Institute of Mental Health, 5600 Fishers Lane, room 9C–05, Rockville, Maryland 20857.[2]

Application Requirements

The application should be written in a manner that is self-explanatory to objective, outside reviewers who may not be familiar with prior related activities of the applicant. The appllication should be as brief as possible. The narrative is limited to 20 single-spaced pages and should contain the necessary information for reviewers to understand the project. Appendices may be attached but should *not* be used to merely extend the narrative; extensive appendices are discouraged. It is important that the relationship between the proposed project and ongoing State and/or local activities be clearly explained. It is also important that the activities that are specific to the proposed project be clearly identified.

To ensure that sufficient information is included for technical merit review, please follow the instructions for Program Narrative on page 16 of Form PHS–5161–1. In addition, include the following:

• Project abstract, which should not exceed one-half of a single-spaced, typewritten page.

• Summary description of the proposed project, preliminary analysis of the target population (including size, location, socioeconomic characteristic, racial/ethnic minority composition, etc.), and discussion of the rationale for the project, including factors such as gaps in consumer and family involvement; relationship to the State's comprehensive mental health services Public Law 99–660 plan and advisory council, review of the literature or other relevant knowledge that provides justification for the proposed project; and previous activities and accomplishments that the proposed project builds upon.

• Discussion of involvement of primary consumers, family members, and other interested individuals in planning the project.

• Management plan that identifies the organizational location for the project, describes how the project will be managed, and explains the roles and responsibilities of consumers and family members in managing the project.

• Evidence of support from all organizations and entities to be involved in the project.

• If the State proposes to fund single or multiple projects through a request for proposals (RFP) process, inclusion of the rationale for selecting this approach, copy of the RFP, list of eligible applicants, and description of the advertisement and review process.

• Evaluation plan that describes who will conduct the evaluation of the project (should be an objective, outside evaluator), how State evaluation staff will be involved, and how the project will be evaluated.

• In addition to the budget information requested in Form PHS–5161–1, for the funds to be requested through this grant, a detailed justification for each line item budget for each year of the project.

• Identification of all key staff and consultants who will have major roles in implementing or evaluating the project, including position descriptions and resumes.

Client Safeguards

If the project will be collecting identifiable information about individual clients or project staff for project

[1] If express mail or overnight courier service delivery is used, the zip code is 20816.

[2] The mailing envelope (including that provided by an express carrier) should be clearly marked, "RFA MH 92–04."

evaluation purposes, assurances for protecting client and staff confidentiality and anonymity must be included.

Terms and Conditions of Support

Period of Support

Support may be requested for a period of up to 3 years. Annual awards will be made, subject to continued availability of funds and progress achieved.

Availability of Funds

In fiscal year 1992, it is estimated that approximately $1.5 million will be available to support approximately 15 projects. The expected average amount of an award is $100,000 per year. However, the amount of funding available will depend on appropriated funds and program priorities at the time of award.

Allowable Costs

In accordance with section 520 of the Public Health Service Act, applicants must include the following agreement in their applications: "(Applicant) agrees that not more than 10 percent of any resultant grant award will be expended for administrative purposes." Administrative costs are non-programmatic support costs for the project such as expenditures for bookkeeping and grants administration. Administrative costs are not equivalent to indirect costs. Indirect costs are allowable costs which cannot be readily identified to individual projects and are, therefore, allocated to individual grant-supported projects based on a negotiated indirect cost rate.

Grants are intended to assist in meeting the costs of planning, developing, and implementing activities to support attainment of the project objectives. Applicants are expected to determine the costs of the project for the proposed project period. Grant funds are to be additive, not substitutive; they are not to be used to replace existing resources.

Grant funds may be used for expenses clearly related and necessary to carry out the proposed project, including both direct and indirect costs which are specifically identified with the proposed project. Grant funds may be used to obtain consultation (e.g., from primary consumers, family members, community organizers, evaluators, trainers) related to project activities. States are expected to provide inkind support for the staffing necessary to implement the activities under the approved project. States may, however, request grant support for salaries, wages, and fringe benefits for non-State agency staff involved in project-related activities who are consumers, family members, or citizens.

Other items of expenditures, for which applicants may request grant support include:

- Travel and training directly related to carrying out activities under the approved project. (Each grantee will be asked to participate, along with a consumer and a family leader, in one annual technical assistance/problem-solving meeting to be held in the Washington, DC area.)
- Supplies, communications, and rental of space directly related to approved project activities.
- Contracts to consumer or family organizations or programs and to consultants (preferably consumers or family members) as necessary for performance of activities under the approved project.
- Other such items necessary to support project activities, as approved by NIMH Grants must be administered in accordance with the PHS Grants Policy Statement (revised October 1, 1990). Federal regulations, 45 CFR parts 92 and 74, generic requirements concerning the administration of grants, are applicable to these awards.

Review Procedures

Applications received under this announcement will be assigned to an Initial Review Group (IRG) in accordance with established PHS Referral Guidelines. The IRGs, consisting primarily of non-Federal scientific and technical experts, will review the applications for scientific and technical merit. Notification of the review outcome will be sent to the applicant after the initial review. Applications will receive a second-level review by the National Advisory Mental Health Council whose review may be based on policy considerations as well as technical merit. Only applications recommended by the Council may be considered for funding.

Review Criteria

Each grant application is evaluated on its own merits. The following are the review criteria that will be used:

- Quality and clarity of the description of the proposed project, rationale, relationship to the State comprehensive mental health Public Law 99–660 services plan, relationship to previous activities and accomplishments, and potential benefits.
- Evidence that the project was planned by and has the endorsement of the major consumer and family support organizations in the State.
- Relevance of the project to the goals of the announcement.
- Quality, feasibility, and thoroughness of the project plan.
- Quality of the required evaluation plan.
- Capability and experience of the project director, consultants, and other key staff proposed for the project.
- Quality of the management plan.
- Potential of the project to enhance the meaningful involvement of consumers, family members, and other interested individuals in the planning and provision of mental health services.
- Attention to racial, ethnic, and minority population issues and concerns.
- Appropriateness of budget estimates for the proposed project activities.

Intergovernmental Review

The intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100, are applicable to this program. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact the State's single point of contact (SPOC) as early as possible to alert them to the prospective application and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application kit. The SPOC should send any State process recommendations to Stephen J. Hudak. (See below for address.)

Receipt and Review Schedule

Receipt of applications	Initial review	Council review	Earliest Start Date
May 18, 1992.	June 1992...	September 1992.	September 1992.

Applications received after the above receipt date will be returned to the applicant without review.

Award Criteria

Applications recommended by the National Advisory Mental Health Council will be considered for funding on the basis of:

- Quality of the proposed project as determined by the review process.
- Geographical location so that all sectors of the Nation can be represented to the extent possible

- Availability of funds
- Projects requesting funds for improving mental health services for American Indians and Alaskan Natives will be given special consideration.

FOR FURTHER INFORMATION:

Program issues: Neal Brown, Chief, Community Support Section, National Institute of Mental Health, Parklawn Building, room 11C–22, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3653.

Grants management issues: Stephen J. Hudak, Chief, Grants Management Section, National Institute of Mental Health, Parklawn Building, room 7C–23, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4456.

The Catalog of Federal Domestic Assistance number for this program is 93.125.

Joseph R. Leone,

Associate Administrator for Management, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92–3458 Filed 2–12–92; 8:45 am]

BILLING CODE 4160–20–M

Extramural Science Advisory Board Meeting in February

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Correction of meeting notice.

SUMMARY: The public notice given in the **Federal Register** on January 13, 1992, Volume 57, No. 8 on pages 1270–1271, listed the NIMH Extramural Science Advisory Board's February 20–21 meeting location as Conference Room L of the Parklawn Building, 5600 Fisher's Lane, Rockville, MD 20857. The meeting location has been changed to:

Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Also, the starting time of the meeting has been changed from 8:30 a.m. to 12 noon on February 20. All other meeting information is correct.

Dated: February 7, 1992.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92–3457 Filed 2–12–92; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

HIV Progam Evaluation Meeting

The National Center for Prevention Services (NCPS) of the Centers for Disease Control (CDC) announces the following meeting.

Name: HIV Program Evaluation Meeting.

Time and Date: 8:30 a.m.–4:30 p.m., March 3, 1992.

Place: CDC, Freeway Office Park, Conference Room, 1644C Tullie Circle, NE, Atlanta, Georgia 30329.

Status: Open to the public, limited only by space available.

Purpose: A small group composed of CDC program staff, state HIV/sexually transmitted diseases (STD) project directors, state HIV/STD evaluation specialists, quality assurance specialists, and social scientists with expertise in program evaluation will discuss program issues related to the evaluation of HIV prevention programs. These discussions are preliminary to a larger meeting on this topic to be held April 14, 1992, in Atlanta.

Matters to be Discussed: The meeting will focus on a number of important public health questions, such as:

- What lessons have we learned about the methods used for HIV-prevention program evaluation?
- How can HIV program evaluations be structured so as to best serve the needs and constraints of state and local health departments?
- How can quality assurance methods be used to augment process evaluation methodologies?
- What forms of evaluation technical assistance are required by state and local health departments?

From these discussions, CDC may produce additional technical guidance for evaluators and program managers and may, in addition, refine its own technical assistance and training activities related to HIV prevention evaluation.

Contact Person for More Information: David Holtgrave, Ph.D., Behavioral Scientist, NCPS (HIV), CDC, Mailstop E07, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–1480 or FTS 236–1480.

Dated: February 7, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92–3455 Filed 2–12–92; 8:45 am]

BILLING CODE 4160–18–M

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Long-Term Care Statistics: Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control, announces the following meeting.

Name: NCVHS Subcommittee on Long-Term Care Statistics.

Times and Dates: 9:30 a.m.–5 p.m., March 4, 1992; 9 a.m.–1 p.m., March 5, 1992.

Place: Room 703A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The Subcommittee will discuss long-term care research issues and data needs and current long-term care data systems in the Department of Health and Human Services with program staff.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050 or FTS 436–7050.

Dated: February 7, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92–3456 Filed 2–12–92; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–010–4320–12/GP2–0107]

Albuquerque District, New Mexico; District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The BLM's Albuquerque District Grazing Advisory Board will meet on March 26, 1992 at 9:30 a.m. in the Albuquerque District office located at 435 Montano NE., Albuquerque, New Mexico.

The meeting agenda will include:

- Introduction and Opening Remarks.
- Range Improvements Progress Report for FY 92.
- Range Improvements Progress Ranking for FY 93.
- Video "Buffalo Lessons".
- Public Comment (1 p.m.).
- Land Exchanges.
- Resource Area—Current Issues.
- 1992 GAB Elections.

The meeting is open to the public. Anyone interested in attending this meeting to make a presentation must notify the District Manager by March 23, 1992. Written statements may also be filed for the Board's consideration.

FOR FURTHER INFORMATION CONTACT: Gary Wood, Range Conservationist, Bureau of Land Management, Albuquerque District, 435 Montano NE., Albuquerque, New Mexico 87107, (505) 761–8744.

Dated: February 5, 1992.

Robert T. Dale,

District Manager.

[FR Doc. 92–3486 Filed 2–12–92; 8:45 am]

BILLING CODE 4310–FB–M

[CA-010-02-4333.13]

Bakersfield District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Bakersfield District Advisory Council Meeting.

SUMMARY: The Bureau of Land Management Bakersfield District Advisory Council will meet to discuss the Bureau's role in the North American Waterfowl Management Plan and the Central Valley Habitat Joint Venture.

DATES: February 27–28, 1992.

ADDRESS: Sheraton Inn, Newport Room, 11211 Point East Drive, Rancho Cordova, California.

FOR FURTHER INFORMATION CONTACT: Larry Mercer, Public Affairs Officer, Bakersfield District Office, 800 Truxtun Avenue, room 300, Bakersfield, CA 93301. Tel: 805–861–4229.

SUPPLEMENTARY INFORMATION: The Bakersfield District Advisory Council is a 10 member citizen group appointed by the Secretary of the Interior under authority granted by section 309 of the Federal Land Policy and Management Act of 1976. Members provide counsel and advice to the District Manager on the planning and management of public lands. The Council will meet on Thursday and Friday, February 27–28, 1992. Members will leave at 8:30 a.m. Thursday from the Sheraton Inn in Rancho Cordova (at the corner of Sunrise and Folsom) for a field trip to the Consumnes River Preserve.

Public wetlands managed by the Bureau of Land Management is part of the wildlife preserve established by The Nature Conservancy and Ducks Unlimited. After a day long field trip, the Council will meet in the Newport Room of the Sheraton Inn in Rancho Cordova beginning at 8 a.m. on Friday. The main topic of discussion will be the Central Valley Habitat Joint Venture, and BLM's role in acquiring and preserving wetlands. The public is welcome to attend the field trip and the meeting. A public comment period has been set aside for 1 p.m. Friday during which time any member of the public may address the Council on any public land issue. Written comments for the Council to consider may be submitted to the BLM office in Bakersfield at the address listed above.

Dated: February 3, 1992.

Ron Fellows,

District Manager.

[FR Doc. 92–3491 Filed 2–12–92; 8:45 am]

BILLING CODE 4310–40–M

[AZ-040-02-4340-02]

Meetings for the Gila Box Advisory Committee

AGENCY: Bureau of Land Mnagement, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with 43 CFR Part 1780, that three meetings of the Gila Box Riparian National Conservation Area (NCA) Advisory Committee will be held.

DATES: March 3, 1992, 10 am.–3:30 p.m., to be held at the Amerind Foundation, Dragoon, AZ;
March 19, 1992, 10 a.m.–4 p.m., Safford District Office;
April 14, 1992, 8:30 a.m.–4:30 p.m., field trip to Safford/Morenci Bridge, and Menges and Subia Allotments.

ADDRESSES: BLM Safford District Office, 425 E. 4th St., Saffford, Arizona 85546.

SUPPLEMENTARY INFORMATION: The NCA Advisory Committee was established by the Arizona Desert Wilderness Act of 1990 to provide input to the Safford District on management of the Gila Box Riparian National Conservation Area (NCA). The Advisory Committee will assist with preparation of the Gila Box Interdisciplinary Activity Plan by identifying issues and concerns, and by assisting with development of the plan using the Limits of Acceptable Change (LAC) planning process.

The meetings on March 3 and March 19 will be used to develop indicators and standards for the Interdisciplinary Activity Plan within the National Conservation Area using the LAC process. During the third meeting on April 14, Advisory Committee members will tour protions of the NCA.

All meetings are open to the public; persons wishing to participate in field tour must provide their own transportation. Interested persons may make oral statements to the Committee between 10:30 and 11 a.m., or may file written statements for consideration by the Committee. Anyone wishing to make an oral statement must contact the BLM Gila Area Manager at least two working days prior to the meeting.

Summary minutes of the meeting will be maintained in the Safford District Office and will be available for public inspection (during regular business hours) within 30 days after each meeting.

FOR FURTHER INFORMATION: Meg Jensen, Cila Resource Manager, or Jonathan Collins, Outdoor Recreation Planner, 425 E. 4th St., Safford, Arizona 85546. Telephone (602) 428–4040.

Dated: January 31, 1992.

Ray A. Brady,

District Manager.

[FR Doc. 92–3469 Filed 2–12–92; 8:45 am]

BILLING CODE 4310–32–M

[CO-050-4713-02]

Seasonal Road Closure

AGENCY: Bureau of Land Management, Interior.

ACTION: Seasonal road closure.

SUMMARY: Notice is hereby given in accordance with 43 CFR 8364.1(a) Closure and Restriction. Pursuant to 43 CFR 8364.1 the following Bureau of Land Management (BLM) roads in Conejos, Rio Grande, and Saguache Counties will be temporarily closed to protect roads and fragile resources during the wet conditions of the spring thaw.

Conejos County: Cumbres Toltec Rd. (#5035), Bighorn Rd. (#5041), Las Mesitas Rd. (#5048), Poso Loop Rd. (#5046), Ra Jadero Rd. (#5065), Posito Creek Rd. (#5075), Capulin Peak Rd. (#5060) and Cinder Pits Rd. (#5055).

Rio Grande County: Bronson Peak Rd. (#5100), Spring Gulch Rd. (#5105), and the Nine Mile Road access onto BLM Rd. #5100.

Saquache County: Poncha Loop Rd. (#5325), Clover Creek Rd. (#5330), Dorsey Creek Rd. (#5331), Noland Gulch Loop Rd. (#5305), Clayton Cone Rd. (#5310), Findley Gulch Rd. (#5290), Poison-Dry Loop Rd. (#5275), Ford Creek Rd. (#5270), Cabin Draw Rd. (#5265), Ward Gulch Rd. (#5260), Antelope Creek Rd. (#5250), Trickle Mountain Rd. (#5255), Big Dry Gulch Rd. (#5242), Taylor Canyon Rd. (#5248), Spanish Creek Rd. (#5252), Decker Creek Rd. (#5335) and Squaw Creek Rd. (#5245).

DATES: March 1, 1992 through May 31, 1992.

FOR FURTHER INFORMATION CONTACT: Joe Kraayenbrink at (719) 589–4975.

ADDRESSES: Comment can be directed to: Area Manager 1921 State Street, Alamosa, CO. 81101 or Canon City District Manager, BLM, P.O. Box 2200, Canon City, CO. 81215–2200.

SUPPLEMENTARY INFORMATION: This temporary closure will serve to protect

the fragile vegetation and highly erodible soils from adverse effects of vehicle travel during the wet months of the year. Roads will be reopened to travel when dry soil conditions allow. Pursuant to 43 CFR 8346.1(4), the following persons are exempted from this order: Search and Rescue, Local Law Enforcement and BLM personnel in performance of official duties.

Donnie R. Sparks,

District Manager.

[FR Doc.92-3471 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-JB-M

[WY-920-41-5700; WYW52066]

Proposed Reinstatement of Terminated Oil and Gas Lease

February 5, 1992.

Pursuant to the provisions of Public Law 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW52066 for lands in Sweetwater County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16-2/3 percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW52066 effective October 1, 1990, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Florence R. Speltz,

Supervisory Land Law Examiner.

[FR Doc. 92-3480 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-22-M

[(WY-060-02-4212-14; WYW116929)]

Realty Action; Direct Sale of Public Lands; WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction of notice of realty action, direct sale of public lands in Natrona County, Wyoming.

SUMMARY A Notice of Realty Action published in the **Federal Register** on August 7, 1991 (56 FR 37563-4) contained an error in the legal description of lands offered for sale. The legal description is corrected to the following:

Sixth Principal Meridian

T.40 N., R. 78 W.,

Sec. 7: lots 1 and 2.

The above land aggregates 70.12 acres in Natrona County, Wyoming.

FOR FURTHER INFORMATION CONTACT: Bill Mortimer, Area Manager, Platte River Resource Area (307) 261-7500.

Dated: February 4, 1992.

[FR Doc. 92-3479 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-22-M

[AZ-942-02-4730-120]

Arizona, Filing of Plats of Survey

February 4, 1992.

1. The plats of survey of the following described lands were officially filed in the Arizona State Office, Phoenix, Arizona, on the dates indicated:

A plat (in 2 sheets) representing a dependent resurvey of a portion of the San Ignacio Del Babocomari Land Grant, the north boundary (Fourth Standard Parallel South), the west boundary, the subdivisional lines, certain Homestead Entry Surveys, and the subdivision of certain sections, and a metes-and-bounds survey in Township 21 South, Range 17 East, Gila and Salt River Meridian, Arizona, was accepted October 9, 1991, and was officially filed October 22, 1991.

This plat was prepared at the request of the U.S. Forest Service, Regional Office, Albuquerque, New Mexico.

A plat representing a survey of the south boundary, identical with the Seventh Standard Parallel North, through Range 29 East, in Township 29 North, Range 29 East, Gila and Salt River Meridian, Arizona, was accepted October 29, 1991, and was officially filed November 6, 1991.

A plat representing a survey of the south boundary, identical with the Seventh Standard Parallel North, through Range 30 East, the east, west and north boundaries, and the subdivisional lines in Township 29 North, Range 30 East, Gila and Salt River Meridian, Arizona, was accepted October 29, 1991, and was officially filed November 6, 1991.

A plat (in 2 sheets) representing a dependent resurvey of a portion of the Arizona-New Mexico State Line between the 72 mile post and the 79 mile post; and a survey of the south boundary, identical with the Seventh Standard Parallel North, through Range 31 East, the north boundary and the subdivisional lines of Township 29 North, Range 31 East, Gila and Salt River Meridian, Arizona; was accepted December 3, 1991, and was officially filed December 12, 1991.

A plat representing a survey of the east and west boundaries and the subdivisional lines of Township 28 North, Range 30 East, Gila and Salt River Meridian, Arizona, was accepted December 9, 1991, and was officially filed December 19, 1991.

A plat representing a dependent resurvey of a portion of the Arizona-New Mexico State Line between the 79 mile post and the 84 mile post; and a survey of the subdivisional lines of Township 28 North, Range 31 East, Gila and Salt River Meridian, Arizona; was accepted December 18, 1991, and was officially filed December 23, 1991.

These plats were prepared at the request of the Bureau of Indian Affairs, Navajo Area Office, Window Rock, Arizona.

A plat (in 2 sheets) representing a dependent resurvey of the partition line between sections 4 and 9, the fixed and limiting boundary of the left bank of the abandoned channel of the Colorado River, in section 4, and a portion of the south boundary of the La Follette Purchase in Township 17 North, Range 22 West, Gila and Salt River Meridian, Arizona, was accepted November 5, 1991, and was officially filed November 14, 1991.

This plat was prepared at the request of the Bureau of Indian Affairs, Phoenix Area Office.

A plat representing a dependent resurvey of a portion of the subdivisional lines in Township 14 North, Range 5 East, Gila and Salt River Meridian, Arizona, was accepted November 13, 1991, and was officially filed November 21, 1991.

A plat representing a dependent resurvey of a portion of the subdivisional lines and a portion of the subdivision of section 5, in Township 17 North, Range 6 East, Gila and Salt River Meridian, Arizona, was accepted November 18, 1991, and was officially filed November 27, 1991.

These plats were prepared at the request of the U.S. Forest Service, Coconino National Forest.

A plat representing a metes-and-bounds survey of Tract 37 is Unsurveyed Township 4 North, Range 17 East, Gila and Salt River Meridian, Arizona, was accepted December 3, 1991, and was officially filed December 12, 1991.

This plat was prepared at the request of the U.S. Forest Service, Tonto National Forest.

A plat representing a dependent resurvey of a portion of the north boundary, and a portion of the subdivision of section 3; and a survey of lot 29, in section 3, Township 15 South, Range 12 East, Gila and Salt River Meridian, Arizona; was accepted November 18, 1991, and was officially filed November 27, 1991.

This plat was prepared at the request of the Bureau of Land Management, Phoenix District Office.

A supplemental plat showing new lots 14 and 15, a subdivision of original lot 10, in section 6, Fractional Township 18 South, Range 5 West, Gila and Salt River Meridian, Arizona, was accepted December 18, 1991, and was officially filed December 23, 1991.

This plat was prepared at the request of the National Park Service, Western Region.

2. These plats will immediately become the basic records for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

3. All inquiries relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

Joe A. Shotwell,

Acting Chief, Branch of Cadastral Survey

[FR Doc. 92-3474 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-32-M

[ID-942-02-4730-12]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, Effective 9 a.m., February 3, 1992.

The plat representing the dependent resurvey of portions of the subdivisional lines, T. 6 S., R. 13 E., Boise Meridian, Idaho, Group No. 823, was accepted, January 29, 1992.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

Dated: February 3, 1992.

[FR Doc. 92-3488 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-GG-M

[CA-060-02-4214-08]

Cancel Review of Land Use Plan Determinations

AGENCY: Bureau of Land Management, Interior.

ACTION: Cancellation of notice of intent.

SUMMARY: In the **Federal Register** of February 6, 1992 (57 FR 4641), the Bureau of Land Management published a Notice of Intent to prepare a Category 3 Amendment to the California Desert Conservation Area (CDCA) Plan for public lands in Imperial, Riverside, and San Bernardino Counties on which Bureau of Reclamation withdrawals are being considered for termination. The Notice of Intent is cancelled.

ADDRESSES: El Centro Resource Area Office, 333 South Waterman Avenue, El Centro, California 92243-2298.

FOR FURTHER INFORMATION CONTACT: Thomas F. Zale, Multi-Resource Staff Chief, El Centro Resource Area Office, 619-352-5842.

Dated: February 7, 1992.

G. Ben Koski,

Area Manager.

[FR Doc. 92-3460 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-40-M

[NM-940-4214-11; NMNM 5820]

Proposed Continuation of Withdrawal; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service, proposes that 458.59 acres of a 703.59-acre withdrawal of National Forest System Lands for use in connection with three lookouts, one picnic ground, one fishing site, two administrative sites, two campgrounds, and one communication site, continue for an additional 20 years. The lands will remain closed to mining. The lands have been and remain open to mineral leasing.

DATES: Comments should be received by May 13, 1992.

ADDRESSES: Comments should be sent to the New Mexico State Director, BLM, P.O. Box 27115, Santa Fe, New Mexico 87502-7115.

FOR FURTHER INFORMATION CONTACT: Clarence F. Hougland, BLM, New Mexico State Office, 505-438-7593.

SUPPLEMENTARY INFORMATION: The United States Department of Agriculture, Forest Service, proposes that the existing withdrawal made by Public Land Order No. 4592 be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The lands are described as follows:

New Mexico Principal Meridian

Santa Fe National Forest

Pecos Ranger District

Glorieta Lookout and Picnic Ground

T. 16 N., R. 11 E.,
Sec. 5, lot 7.

Dalton Fishing Site

T. 17 N., R. 12 E.,
Sec. 32, lots 5 and 11;
Sec. 33, lot 7.

Panchuela Administrative Site and Campground

T. 19 N., R. 12 E.,
Sec. 27, that portion lying outside the Pecos Wilderness in the W½NE¼SW¼, SE¼NE¼SW¼, SE¼SW¼SW¼, E½SE¼SW¼, NW¼SE¼SW¼, and W½SW¼SE¼;
Sec. 34, N½NW¼NE¼, SW¼NW¼NE¼, and N½SE¼NW¼NE¼.

Manzanares Administrative Site and Campground

T. 17 N., R. 13 E.,
Sec. 32, E½ of lot 2, lot 3, S½SW¼NE¼, and NW¼SE¼.

Elk Mountain Lookout and Communication Site

T. 18 N., R. 13 E.,
Sec. 22, S½NW¼SE¼ and N½SW¼SE¼.

Barillas Peak Lookout

T. 16 N., R. 14 E.,
Sec. 33, W½SW¼SW¼.

The areas described aggregate 458.59 acres in Santa Fe and San Miguel Counties.

The purpose of the withdrawal is for the use and protection of substantial capital improvements in connection with three lookouts, one picnic ground, one fishing site, two administrative sites, two campgrounds, and one communication site. All of the lands are and remain segregated from operation of the mining laws, but not to the mineral leasing laws.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation, may present them in writing to the New Mexico State Director at the address indicated above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources.

A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether the withdrawal will be continued, and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: February 4, 1992.

Monte G. Jordan,

Acting State Director.

[FR Doc. 92-3481 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-FB-M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT-765403.

Applicant: New York Zoological Society, Bronx, NY

The applicant requests a permit to import one captive-born female snow leopard (*Panthera uncia*) from Krefelder Zoo, Germany, for enhancement of propagation.

PRT-765404.

Applicant: New York Zoological Society, Bronx, NY

The applicant requests a permit to import one male and one female captive-hatched hooded cranes (*Grus monacha*) from Rare Crane Breeding Center, Oka Nature Reserve, Russia, for captive breeding.

PRT-765402.

Applicant: New York Zoological Society, Bronx, NY

The applicant requests a permit to import two male captive-held Maleo macropode (*Macrocephalon maleo*) from Nogeyama Zoological Gardens, Yokohama, Japan, for enchancement of propagation.

PRT-764975.

Applicant: Denver Zoological Gardens, Denver, CO.

The applicant requests a permit to import one captive-born male Babirusa (*Babyrousa babyrussa*) from the Antwerp Zoo, Antwerp, Belgium, for captive breeding.

PRT-764978.

Applicant: Edward Kraus, Ann Arbor, MI.

The applicant requests a permit to import the liver from a captive-born, unsexed Round Island boa (*Casarea dussumieri*) that died December 1990, from the Jersey Wildlife Preservation Trust, Jersey Channel Islands, for scientific research.

PRT-762968.

Applicant: Jan Giacinto & Dirk Arthur, Exotic Animals, Tarzana, CA.

The applicant requests a permit to import one female captive-born leopard (*Panthera pardus*) from Nassau, Bahamas for enhancement of propagation or survival. This animal is the progeny of the applicant's leopards that were performing in Nassau.

PRT-764235.

Applicant: Columbus Zoological Gardens, Powell, OH.

The applicant requests a permit to import and reexport a pair of giant pandas from China for the purposes of a zoological exhibition designed to promote conservation and education with respect to giant pandas and other endangered species. The pair of pandas consists of a male, "chang chang", brought into captivity from the wild in 1986 (estimated to be about 15 years of age at time of capture), and a female, "tao tao", also brought into captivity in 1986 (estimated to be 13 years of age at that time). Both animals originated in the Bai-sui-jiang National Nature Reserve, Gansu Province, China. The exhibition is proposed to begin in March, 1992, and to last a maximum of 219 days, through October, 1992.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to, or by appointment during normal business hours (7:45–4:15) in, the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone (703/358–2104); Fax (703/358–2281)

Dated: February 7, 1992.

Margaret Tieger,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 92-3404 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-55-M

Availability of the Technical/Agency Draft Recovery Plan for the Cumberland Pigtoe Mussel for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft recovery plan for the Cumberland pigtoe mussel. This species is endemic to the Caney Fork River system (a Cumberland River tributary) in Grundy, Van Buren, Warren, and White Counties, Tennessee. Although presumably once widely distributed in the Caney Fork system, the species now occurs in short reaches in only four Caney Fork River tributaries. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft technical/agency draft recovery plan must be received on or before April 13, 1992 to receive consideraton by the Service.

ADDRESSES: Persons wishing to review the technical/agency draft recovery plan may obtain a copy by contacting the Asheville Field Office, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Biggins at the above address (704/665–1195, ext. 228).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems if a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, criteria for recognizing the recovery levels for downlisting or delisting them, and initial estimates of time and costs to implement the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 et seq.), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The primary species considered in this draft recovery plan is the Cumberland pigtoe mussel (Pleurobema gibberum). The area of emphasis for recovery actions is the Caney Fork River basin in central Tennessee. Habitat protection, reintroduction, and preservation of genetic material are major objectives of this recovery plan.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: February 4, 1992.

Brian P. Cole,

Field Supervisor.

[FR Doc. 92-3487 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Revised Information Collection Submitted for Review

The collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the information collection requirement and related explanatory material may be obtained by contacting Jeane Kalas at 303-231-3046. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer at the telephone number listed below and to the Office of Management and Budget Paperwork Reduction Project (1010-0022), Washington, DC, 20503, telephone 202-395-7340.

Title: Report of Sales and Royalty Remittance.

Abstract: The Report of Sales and Royalty Remittance is submitted by those individuals and companies producing minerals from leased Indian lands or from leased Federal lands both onshore and offshore. Respondents report monthly on mineral lease activities, documenting essential data used by the Royalty Management Program in the calculation of royalties due. This revised supporting statement is necessary because of the elimination of Form MMS-4014, Report of Sales and Royalty Remittance—Solid Minerals. Solid minerals sales and royalties, as well as oil, gas, and geothermal sales and royalty remittances, will now be reported on Form MMS-2014.

Bureau Form Number: MMS-2014.

Frequency: Monthly.

Description of Respondents: Oil, gas,, solid mineral, and geothermal lessees reporting activities from Indian or Federal onshore or offshore leases.

Annual Responses: 2,609,580 lines.

Annual Burden Hours: 213,671.

Bureau Clearance Officer: Dorothy Christopher, 703-787-1239.

Dated: January 9, 1992.

John J. Russo,

Associate Director for Royalty Management.

[FR Doc. 92-3466 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-MR-M

Information Collection Submitted for Review

The revised supporting statement for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related form and explanatory material may be obtained by contacting Jeane Kalas at 303-231-3046. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer at the telephone number listed below and to the Office of Management and Budget Paperwork Reduction Project (1010-0064), Washington, DC 20503, telephone 202-395-7340.

Title: Payor Information Form—Solid Minerals.

Abstract: The information used in the Auditing and Financial System is collected from lessees and lease operators producing minerals from leased Indian land or from leased Federal land. The information required on the Payor Information Form is used to establish a data base and assign accounting identification numbers. The Form is also used on occasion to update the data base. This revision of an information collection approved under OMB number 1010-0064 is necessary because of the elimination of Form MMS-4014, Report of Sales and Royalty Remittance—Solid Minerals, and the transfer of burden associated with that Form to Form MMS-2014 (OMB approval No. 1010-0022).

Bureau Form Number: MMS-4030.

Frequency: Initially to establish a data base and then on occasion to update the data base.

Description of Respondents: Solid mineral companies and lease operators producing minerals from leased Federal and Indian lands.

Annual Responses: 130.

Annual Burden Hours: 89.

Bureau Clearance Officer: Dorothy Christopher 703-787-1239.

Dated: January 9, 1992.

John. J. Russo,

Acting Associate Director for Royalty Management.

[FR Doc. 92-3473 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Section 5a Application No. 60; Amdt No. 9]

Rocky Mountain Carriers—Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision and opportunity for comment.

SUMMARY: Rocky Mountain Carriers (RMB) has filed a petition seeking approval of a minor amendment to its ratemaking agreement approved under 49 U.S.C. 10706(b). The amendment would modify Article V, section 3 and Article VII of RMB's bylaws to: (1) Reduce the minimum required number of members on the Board of Directors from 15 to 8; (2) reduce the maximum number of members authorized to be on the Board of Directors from 25 to 15; and (3) reduce the size of the Executive Committee from 5 to 3 members, with 2 members constituting a quorum. The Commission has issued a decision proposing to approve the amendment.

DATES: Comments from interested persons are due March 16, 1992. Replies are due 15 days thereafter. If no timely filed adverse comments are received, the sought relief will automatically become effective at the close of the comment period. If opposition comments are filed, the comments and any reply

will be considered, and the Commission will issue a final decision.

ADDRESSES: An original and 10 copies, if possible, of comments referring to Section 5a Application No. 60 (Amendment No. 9) should be sent to: Office of Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. A copy of any comments filed with the Commission must also be served on applicant's representative.

FOR FURTHER INFORMATION CONTACT: Richard Felder, (202) 927-5610. [TDD for hearing impaired: (202) 927-5721]

SUPPLEMENTARY INFORMATION: Copies of RMB's approved agreement and the amendment are available for public inspection and copying at the Public Docket Room (room 1227) of the Commission in Washington, DC, and from RMB's representative: Don R. Devine, 4045 Pecos Street, Denver, CO 80217.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pickup in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

Authority: 49 U.S.C. 10321 and 10706 and 5 U.S.C. 533.

Decided: February 5, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett. Commissioner Simmons was absent and did not participate in the disposition of the proceeding.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-3494 Filed 2-12-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with section 122(d)(2)(B) of the Comprehensive Environmental Response, Compensation and Liability Act and with Department of Justice policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Alsay, Inc., et al.*, Civil Action No. S92-0024 (Br.) was lodged on January 17, 1992 with the United States District Court for the Southern District of Mississippi. The proposed Consent Decree concerns the recovery of costs in connection with clean-up of the Disposal Systems, Inc. Superfund Site (the "Site") located on Fifth Street in Biloxi, Harrison County, Mississippi. The proposed Consent Decree requires the Defendants to reimburse the United States $740,961.66.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Alsay, Inc., et al* D.J. Ref. 90-11-2-581.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Southern District of Mississippi, 119 Main Street, Biloxi, Mississippi 39530, and at the Region IV, Office of the Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365. The proposed Consent Decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building NW., Washington, DC 20004 (202-347-2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $28.00 (50 cents per page reproduction cost) payable to the Treasurer of the United States.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

FR Doc. 92-3467 Filed 2-12-92; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (92-15)]

NASA Advisory Council (NAC), Aerospace Medicine Advisory Committee (AMAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NAC Aerospace Advisory Committee.

DATES: February 18, 1992, 8 a.m. to 5 p.m.; February 19, 1992, 8:30 a.m. to 3 p.m.

ADDRESSES: National Aeronautics and Space Administration, room 226, 600 Independence Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. J. Richard Keefe, Code SB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1530).

SUPPLEMENTARY INFORMATION: The Aerospace Medicine Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range planning of aerospace medicine research. The Committee will meet to discuss the status of OSSA, the Radiation Health program, the Biomedical Monitoring and Countermeasures (BMAC) program, and Space Station Freedom status. The Committee is chaired by Dr. Harry C. Holloway and is composed of 22 members. The meeting will be closed to the public from 8:15 a.m. to 9:30 a.m. on February 18, 1992, for a discussion of the qualifications of additional candidates for membership. Such a discussion would invade the privacy of the candidates and other individuals involved. Since this discussion will be concerned with matters lsited in 5 U.S.C. 552b(c)(6), it has been determined that the meeting will be closed to the public for this period of time. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including Committee members). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of Meeting

Open—except for a closed session noted in the agenda below.

Agenda

Tuesday, February 18

- 8 a.m.—Introductory Remarks.
- 8:15 a.m.—Closed Session.
- 9:30 a.m.—Roles and Missions/OSSA Status.
- 11:15 a.m.—Discussion of International Activities.
- 1 p.m.–Discussion of NASA/National Institutes of Health Strategic Planning.
- 2:30 p.m.—Committee Executive Report Status.
- 4 p.m.—Discussion of Radiation Health Program Status.
- 5 p.m.—Adjourn.

Wednesday, February 19

- 8:30 a.m.—Extended Duration Orbiter Medical Program Status.
- 9:45 a.m.—Biomedial Monitoring and Countermeasures Program.

11 a.m.—Committee Executive Report Actions.
1 p.m.—Discussion of Space Station Freedom Status.
2:15 p.m.—Committee Action Items and Report Status.
3 p.m.—Adjourn.

Dated: February 10, 1992.

Philip D. Waller,

Deputy Director, Management Operations Division.

[FR Doc. 92-3499 Filed 2-12-92; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Open Forum: To Follow Up on White House Conference on Library and Information Services; Correction Notice

FR Doc. 92-2581, appearing on page 4218 in the issue of February 4, 1992 under the heading of **DATE/LOCATION.** The date is corrected from March 19, 1992, to Tuesday, March 10, 1992.

Dated: February 6, 1992.

Jane Williams,

NCLIS Research Associate.

[FR Doc. 92-3482 Filed 2-12-92; 8:45 am]

BILLING CODE 7527-01-M

NATIONAL COMMISSION ON MIGRANT EDUCATION

Meeting

ACTION: Notice of meeting.

SUMMARY: The National Commission on Migrant Education will hold its fourteenth meeting on March 1 and 2, 1992, for the purpose of conducting a business meeting. The Commission was established by Public Law 100-297, April 28, 1988.

DATE, TIME, AND PLACE: Sunday, March 1, 1:30 p.m. to 6 p.m., Holiday Inn Capitol, Columbia North Room, 550 C Street, SW., Washington, DC 20024; and Monday, March 2, 8:30 a.m. to 4 p.m., 2257 Rayburn House Office Building, Washington, DC.

STATUS: Open to the public.

AGENDA: Briefings will be provided by representatives of the Interstate Migrant Education Council (IMEC) and the National Preschool Coordination Project. All other time will be devoted to discussion of issues related to the Commission's final report.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Skiles (301) 492-5336, National Commission on Migrant Education, 8120 Woodmont Avenue, Fifth Floor, Bethesda, Maryland 20814.

Linda Chavez,

Chairman.

[FR Doc. 92-3514 Filed 2-12-92; 8:45 am]

BILLING CODE 6820-DE-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Cooperative Agreement for Evaluation of FY 93 Challenge Grant Applicants

AGENCY: National Endowment for the Arts.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to the award of a Cooperative Agreement to oversee the preparation of independent assessment reports of approximately 350 applicants for a FY93 Challenge grant, for use in the grant decision-making process. The assessments will result from the analysis of application documents and through telephone interviews with key staff and board members of the applicants, and will address each applicant's ability to successfully meet the Challenge Grant requirements for the proposed activities. The artistic quality of the applicant organization or the proposed project will not be included in the analysis. The role of the recipient of the Cooperative Agreement will be to provide independent assessment reports; advise the Endowment, its panels, and other decision-making bodies as to the feasibility and potential impact of a Challenge Grant for the applicants; and attend all meetings where applications are reviewed to answer questions about the assessment reports. Those interested in receiving the Solicitation package should reference Program Solicitation PS 92-03 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: Program Solicitation PS 92-03 is scheduled for release approximately March 2, 1992 with proposals due April 2, 1992.

ADDRESSES: Requests for the Solicitation should be addressed to the National Endowment for the Arts, Contracts Division, room 217, 1100 Pennsylvania Ave., NW., Washington, DC 20506

William I. Hummel,

Director, Contracts and Procurement Division.

[FR Doc. 92-3485 Filed 2-12-92; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Advanced Scientific Computing; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Advanced Scientific Computing.

Date and Time: March 12-13, 1992; 9 am to 5 pm.

Place: Room 417, National Science Foundation, 1800 G St., NW. Washington, DC 20550.

Type of Meeting: Closed.

Contact Persons: Dr. Merrell Patrick, Program Director, Division of Advanced Scientific Computing, room 417, Telephone: (202) 357-7727. Dr. John C. Cherniavsky, Acting Head, Office of Cross Directorate Activities, room 436, Telephone: (202) 357-7349. National Science Foundation, Washington, DC.

Purpose of Meeting: To provide advice and recommendations concerning applications submitted to NSF to research support.

Agenda: Review and evaluate Postdoctoral Research Associateships in Computational Science and Engineering and Experimental Computer Science applications.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S.C. 552 b. (c) (4) and (6) the Government in the Sunshine Act.

Dated: February 10, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-3500 Filed 2-12-92; 8:45 am]

BILLING CODE 7555-01-M

Earth Sciences Proposal Review Panel; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or

confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Earth Sciences Proposal Review Panel.

Date: March 11, 12, and 13, 1992.

Time: 8 a.m. to 6 p.m. each day.

Place Room 543, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Contact: Dr. Alan M. Gaines, Section Head, Division of Earth Sciences, room 602, National Science Foundation, Washington, DC, (202) 357–9591.

Dated February 10, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–3501 Filed 2–12–92; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Networking and Communications Research and Infrastructure; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Networking and Communications Research and Infrastructure.

Date: March 11, 1992.

Time: 8:30 a.m.–5 p.m.

Place: Room 417, National Science Foundation, 1800 G St., NW., Washington, DC 20550.

Type of Meeting: Closed.

Agenda: Review and evaluate NSFNET Connections proposals.

Contact: Mr. Daniel VanBelleghem, NSFNET Program, National Science Foundation, room 416, Washington, DC 20550 (202–357–9717).

Dated: February 10, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–3502 Filed 2–12–92; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Polar Programs; Meeting

Time: March 9, 1992, 8:30 a.m.–5:30 p.m., March 10, 1992, 8:30 a.m.–3:30 p.m.

Place: National Science Foundation, room 540, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Dr. Jane Dionne, Polar Science Section, Division of Polar Programs, or Ms. Pawnee Cromer, room 620, National Science Foundation, Washington, DC 20550. Telephone: (202) 357–7894.

Purpose of Committee: Serves to provide expert advice to the U.S. Antarctic Programs and the Arctic Program, including advice on science programs, polar operations support, budgetary planning, and polar coordination and information.

Agenda

March 9, 1992

8:30 Opening, Introductions, and Welcome—Solomon/Wilkniss
9:05 Discussion and approval of 3/91 minutes
9:15 Assistant Director GEO, Dr. Corell—Corell
9:45 DPP budget information and other—Wilkniss/Slater
10:15 Introductory discussion of Implementation Report and goals of Meeting—Solomon
10:30 Break
10:45 Current Progress and Issues in Arctic Science—DeLaca
11:30 Library of Congress Antarctic Bibliography Projection Review—Guthridge
12:00 Lunch
1:00 Status of Crary Lab and Science Issues—Peacock
2:00 Polar Communication Issues—Smith
2:45 GEO Long Range Plan—Alley
3:00 Break
3:15 Other DPP issues
4:00 Discussion of Implementation Report—Committee
5:30 Adjourn

March 10, 1992

8:30 Writing session by the DAC—Committee
10:00 Presentation of Implementation Report section by DAC members (approx. 10–15 min. each)—Committee
Overview—Solomon
Glaciology—Alley
Earth Science—Rees
Social Science—Schaeffer/McGovern
Biology—Freckman
ARCSS—Moritz/Muench
Aeronomy & Astrophysics—Solomon/Peterson
Data Transfer & Communications—Rosenberg
Instrumentation—Robison
12:00 Lunch
1:00 Discussion of Report—Solomon/DAC
2:30 Adjourn

Dated: February 10, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–3503 Filed 2–12–92; 8:45 am]

BILLING CODE 7555–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–30348; File No. SR–Amex–91–25]

Self-Regulatory Organizations; Filing of Amendment No. 1 to Proposed Rule Change by the American Stock Exchange, Inc., Relating to New Listing Standards for an Emerging Company Marketplace

February 6, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 4, 1992, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") an amendment to the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed amendment from interested parties.

I. Self–Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend the proposed rule change (SR–Amex–91–25), which establishes listing criteria for an Emerging Company Marketplace ("ECM"), in several respects. First, the Exchange proposes to amend Exchange Rule 462 to provide that ECM securities be subject to a 100% maintenance margin requirement, unless the Exchange determines that such securities meet all applicable criteria enumerated in § 220.17(a) of Regulation T (Requirements for List of OTC Margin Stocks). Second, the Exchange proposes to clarify that all transactions in ECM stocks would be consolidated through Tape B of the Consolidated Tape Association ("CTA") on a real time, last-sale basis, and that failure to remain

CTA-eligible would result in immediate delisting in accordance with applicable Exchange procedures. Finally, the Exchange proposes to amend the Company Guide to clarify that the numerical guidelines for the ECM are mandatory and may not be waived, as well as amend those provisions of the Company Guide that are applicable to ECM companies.[1]

II. Self–Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Amex has long played an active role in fostering capital formation for mid-size companies. Listing on the Amex provides these companies with a liquid, effficient auction market (a function of the last-sale based auction market) and a variety of services which raise their profile in the investment community. The net effect for these issuers is lowered cost of capital.

Promising growth companies traded over-the-counter ("OTC"), which are too small to satisfy the Exchange's present listing criteria, are unable to take advantage of these benefits. At the same time, a lack of credit and heightened global competition have made the environment in which these companies operate increasingly difficult. The Exchange believes that it can directly address the needs of these companies by developing an "incubator" marketplace (the "Emerging Company Marketplace" or "ECM"). As set forth below, the ECM will have both objective and subjective screening criteria.

Listing criteria. Companies presently traded in NASDAQ, which satisfy that marketplace's new financial maintenance criteria, and other companies which satisfy NASDAQ's new financial original listing criteria, would be eligible to apply to list on the ECM provided in each case that they also have a public float of at least 250,000 shares and outstanding shares with a total market value of at least $2,500,000. This is to insure that only those issues which have attracted significant investor interest would be eligible to list. In addition, alternate listing criteria for slightly small issuers with a larger market capitalization are being proposed. The proposed numerical criteria are as follows.

NUMERICAL CRITERIA

	Original				Maintenance (all)	
	Companies not presently traded in NASDAQ		Companies presently traded in NASDAQ		Regular	Alternate
	Regular	Alternate	Regular	Alternate		
Total Assets	$4M	$3M	$2M	$2M	$2M	$2M.
Capital & surplus	$2M	$2M	$1M	$2M	$1M	$2M.
Total market value	$2.5M	Over $10M	$2.5M	$2.5M	$500,000	$1M.
Public float	250,000 shs	400,000 shs	250,000 shs	250,000 shs	250,000 shs	250,000 shs.
Public shareholders	300	300	300	300	300	300.
Minimum price	$3	$2	$1	Below $1	$1	Below $1.

A company applying to list on the ECM would be reviewed (as would any candidate for regular listing on the Exchange) by the financial analysts in the Exchange's Corporate Finance & Analysis area. The analysts would apply strictly the numerical guidelines specified above. These guidelines are mandatory and will not be waived.

If the company receives a favorable review, it would be submitted to a new "blue ribbon" committee to be appointed by the Exchange for the express purpose of making final listing determinations on these issuers. Members of this committee would have expertise in evaluating the prospects and trading characteristics of small growth-oriented issues.

Companies which survive this screening process would not, however, benefit from the exemption normally afforded under state "blue sky" laws to offerings of securities listed on a primary exchange. Amex representatives have worked closely with the North American Securities Administrators Association ("NASAA") to develop appropriate approval language so that these issuers would continue to remain fully subject to state merit review.

Once listed, issuers on the ECM would be subject to a variety of governance requirements. For example, they would be required to file annual and quarterly reports with the Exchange (and the Commission) and would otherwise be held to the same standards of corporate disclosure as are other Amex-listed companies. They would also have to solicit proxies and hold annual shareholder meetings for the election of directors.

Trading environment. Companies listed in the new ECM would be allocated to a specialist unit and tranded in the same way as regular Amex-listed equity issues. The quality of the specialist unit's performance would be considered in evaluating its eligibility for further allocations on both the primary and secondary (ECM) list.

Specialists would be required to post firm quotations in these issues. Most importantly, all transactions in ECM-listed securities would be consolidated through CTA on a real time, last-sale basis, and the Amex expects that closing prices and volume would be published in all newspapers which carry the Amex stock table. ECM companies will have a readily identifiable data tag so that they can be distinguished on the Tape from other Amex issues, and the Amex intends to work with vendors and newspapers to attempt to secure separate presentation of the ECM list. Last sale reporting would enable the

[1] The exact text of the amendment was attached to the rule filing as exhibit A and is available at the Amex and the Commission at the address noted in Item IV below.

Exchange's Stock Watch Department to monitor, on a real-time basis, all Amex transactions in the issues and facilitate the Exchange's ability to assure compliance with Exchange disclosure policies. In addition, the Exchange would apply all of its post-trade surveillance procedures to transactions in ECM securities.

Transfer to regular list/delisting. The Exchange is hopeful that companies which reach financial maturity on the ECM would eventually choose to become regular Amex-listed companies. Such companies would be required to make application to list in the same form as would other prospect companies.

If an ECM-listed company fails to adhere to the maintenance listing criteria, it would be provided prompt written notice of such deficiency. Companies with a deficiency in market value or price for 10 consecutive trading days would have 90 days thereafter in which to comply with the continued listing requirement. Companies with a deficiency in any other continued listing requirement for the ECM, or in any general Amex continued listing criteria made applicable to the ECM, or which fail to remain CTA-eligible, would be immediately subject to delisting in accordance with the procedures set forth in part 10 of the Company Guide.

Listing fees. Companies applying to list on the ECM would pay an original listing fee of $5,000. The fee would not be charged to any company which is approved for listing prior to the date on which the ECM's inaugural trades take place. If an ECM company later applies to join the Exchange's primary list, it would receive a credit for the ECM original listing fee. Annual listing fees for ECM issuers would be computed using the same schedule which applies to regular Amex-listed companies.

Marginability. ECM companies would not be entitled to automatic marginability as are companies on the Exchange's regular list. Rather, the Exchange is proposing to amend Exchange Rule 462 to require that companies listed on the ECM be subject to a 100% maintenance margin requirement, unless the Exchange determines that such companies satisfy the criteria enumerated in Regulation T for inclusion on the List of OTC Margin Stocks, other than the requirement regarding the number of dealers which must make a market in the stock.

The amendments to Rule 462 provide that the Exchange would determine which ECM stocks satisfy the criteria for marginability, and periodically publish a list of all ECM stocks which are eligible for margin credit ("ECM Margin List"). It is expected that the Exchange would publish such list concurrently with the Federal Reserve Board's quarterly publication of the OTC Margin List. If an ECM stock or its issuers ceases to be listed on the ECM or the stock no longer meets the criteria for continued inclusion on the OTC Margin List, the Exchange would remove the stock from the ECM Margin List.

2. Basis

The proposed rule change is consistent with section 6(b)(5) of the Act in that it is intended to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed amendment will remove or lessen existing burdens on competition in that it will give smaller issuers an additional option to choose from in selecting a marketplace for the trading of their securities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-91-25 and should be submitted by February 28, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3407 Filed 2-12-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30351; File No. SR-DTC-92-04]

Self-Regulatory Organizations; The Depository Trust Company; Filing of Proposed Rule Change Relating to Procedures for Processing Partial Calls of Uniquely Denominated Securities

February 7, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 4, 1992, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (SR-DTC-92-04) as described in Items I, II, and III below, which items have been prepared by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change establishes procedures for applying DTC's existing automated call lottery system to partial calls of uniquely denominated securities. The proposed procedures are attached as exhibit B to the filing.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and statutory basis for the proposed rule change and discussed any

comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC has developed the proposed procedures so that it can make eligible for its services uniquely denominated callable securities. Securities are deemed to be "uniquely denominated" where the issuer has authorized the issuance of certificates and/or trading in a minimum, base denomination (such as $100,000) and larger denominations that are not an integral multiple of the base denomination (such as ($105,000, $110,000, $115,000, $120,000, and so forth). Absent the proposed procedures, application of DTC's existing call lottery system to partial calls of uniquely denominated issues could unintentionally reduce participants' positions below the minimum, base denomination.

Under the proposed rule change, DTC's lottery procedures for the subject securities will fairly and equitably allocate the called quantity among Participants while avoiding wherever feasible leaving Participants with positions below the base denomination. As a result, DTC will be able to make these securities eligible for its services.

The proposed rule change is consistent with the requirements of section 17A(b)(3)(A) of the Act in that it promotes efficiencies in the clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competion that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has discussed the proposed rule change with, and invited written comments from, various industry groups and DTC Participants. Comment letters were received from the Bank Depository User Group, The Cashiers' Association of Wall Street, Inc., the New York Clearing House, the New York Stock Exchange, Inc., and the Securities Operations Division of the Securities Industry Association.

All of these letters from industry groups are supportive of DTC's proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which DTC consents, the Commission shall:

(a) By order approve such proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR-DTC-92-04 and should be submitted by March 5, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 92-3497 Filed 2-12-92; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. IC-18542; 811-3224]

Daiwa Money Fund Inc.; Application for Deregistration

February 7, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Daiwa Money Fund Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N-8F was filed on January 13, 1992, and a supplementary letter was submitted by applicant's counsel on February 5, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 3, 1992 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, 200 Liberty Street, New York, NY 10281.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504-2263, or Max Berueffy, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Massachusetts corporation and an open-end diversified management investment company registered under the Act. On July 13, 1981, applicant filed a notification of registration on Form N-8A. On the same date, applicant filed a registration statement on Form N-1A under the Securities Act of 1933. Applicant's

registration statement was declared effective on December 22, 1981, and a public offering commenced on December 31, 1981.

2. On May 28, 1991, applicant's board of directors adopted an agreement and plan of reorganization under which applicant would transfer its assets and liabilities to Dreyfus Worldwide Dollar Money Market Fund, Inc. ("Dreyfus Fund") (File No. 811–5717) in exchange for shares in Dreyfus Fund. The reorganization plan was approved by the holders of a majority of the outstanding shares of applicant on August 20, 1991.

3. On September 18, 1991, applicant had outstanding 9,577,380.61 shares of its common stock with a net asset value of $1.00 per share. On that date, applicant exchanged its assets and liabilities for 9,577,380.61 shares of the Dreyfus Fund. The Dreyfus Fund shares were then distributed pro rata to applicant's shareholders.

4. The expenses of the reorganization were approximately $18,000. According to a supplementary letter submitted by applicant's counsel, applicant's principal underwriter, Daiwa Securities American, Inc., paid approximately $10,600 for the printing and mailing of proxy statements, and applicant and Dreyfus Fund paid approximately $7,400 in legal fees and disbursements to outside counsel on a pro rata basis according to the net asset value of each fund.

5. At the time of the application, appplicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3405 Filed 2–12–92; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18543; 811–5673]

PaineWebber Classic Flexible Income Fund Inc.; Application for Deregistration

February 7, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: PaineWebber Classic Flexible Income Fund Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N–8F was filed on January 8, 1992, and a supplementary letter was submitted by applicant's counsel on February 5, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 3, 1992 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, 1285 Avenue of the Americas, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504–2263, or Max Berueffy, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Massachusetts corporation and an open-end diversified management investment company registered under the Act. Prior to April 1, 1991, applicant operated as a closed-end investment company named "Flexible Bond Trust, Inc." On October 11, 1988, applicant filed a notification of registration on Form N–8A. On the same date, applicant filed a registration statement on Form N–2. Following pre-effective amendments filed on November 18, 1988 and December 22, 1988, the registration statement was declared effective. Applicant's initial public offering took place shortly thereafter.

2. On January 9, 1991, applicant filed a registration statement on Form N–1A, reflecting its proposed name change and shift to open-end status. Following pre-effective amendments on March 8, 1991 and April 1, 1991, applicant's registration statement was declared effective on June 7, 1991, and a continuous offering of applicant's shares commenced thereafter.

3. On June 12, 1991, applicant's board of directors adopted an agreement and plan of reorganization under which applicant would transfer its assets and liabilities to PaineWebber Income Fund (the "Income Fund"), a series of PaineWebber Master Series, Inc. (File No. 811–4448) in exchange for shares in the Income Fund. The reorganization plan was approved by the holders of a majority of the outstanding shares of applicant on October 10, 1991.

4. On October 18, 1991, applicant transferred its assets in exchange for shares of the Income Fund, and the assumption by the Income Fund of all of applicant's liabilities. The number of Income Fund shares issued to applicant was determined by dividing the net asset value of applicant by the net asset value of a share of the Income Fund as of the close of business, October 18, 1991. On October 21, 1991, applicant distributed pro rata to its shareholders of record as of October 18, 1991, shares of the Income Fund received in the exchange.

5. According to a supplementary letter submitted by applicant's counsel, as of February 5, 1992, the following expenses have been incurred in connection with the reorganization: $43,359.62 in legal fees, $43,908.11 in printing and proxy costs, and $3,500 in accounting fees. Applicant's counsel also estimates that transfer agency fees and other miscellaneous costs will total an additional $10,000. The reorganization plan provided that reorganization expenses would be borne by applicant and the Income Fund in proportion to their respective net assets. According to applicant's balance sheet dated October 18, 1991, the date of exchange, applicant paid $7,739.88 of the reorganization expenses.

6. At the time of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3406 Filed 2-12-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18541; 811-1583]

Sigma U.S. Government Fund, Inc.; Application for Deregistration

February 6, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("Act").

APPLICANT: Sigma U.S. Government Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N-8F was filed on January 13, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be used unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 3, 1992, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, Christiana Executive Campus, 220 Continental Drive, Newark, Delaware 19713.

FOR FURTHER INFORMATION CONTACT: Barry A. Mendelson, Staff Attorney, at (202) 504-2284, or Barry D. Miller, Branch Chief, at (202) 272-3018 (Division of Investment Management), Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management investment company. On January 8,1968, applicant registered under the Act and filed a registration statement under the Securities Act of 1933. The registration statement became effective on September 11, 1968, and applicant's initial public offering commenced shortly thereafter.

2. On October 20, 1988, applicant's board of directors approved an Agreement and Plan of Reorganization ("Plan") between applicant and Meritor U.S. Government Fund, Inc. ("Meritor Fund") pursuant to which Meritor Fund would acquire substantially all of the assets of applicant in exchange for Meritor Fund common stock. According to the combined proxy statement and prospectus, incorporated by reference into the application, as a result of the transaction each of applicant's shareholders would hold shares of Meritor Fund having the same aggregate net asset value as the shares of the applicant held by each such shareholder at the time of closing. The combined proxy statement and prospectus was mailed to applicant's shareholders on December 12, 1988. The Plan was approved at a special meeting of shareholders held on December 27, 1988.

3. As of December 29, 1988, the date of consummation of the acquisition, applicant had outstanding 2,047,939 shares, with a net asset value of $3.09 per share, for a total net asset value of $6,319,164. On December 29, 1988, applicant sold its portfolio securities and other assets to Meritor Fund, less a reserve of $12,928 for accrued but unpaid expenses unrelated to the applicant's liquidation and dissoluton. The shares of Meritor Fund received by applicant in exchange for its assets were then distributed to its shareholders pro rata in accordance with their respective interests in applicant.

4. All expenses incurred in connection with the liquidation and dissolution of applicant were borne by the investment adviser, ProvidentMutual Management Co., Inc. (formerly Sigma Management, Inc.) or its parent company, Sigma American Corporation.

5. Applicant filed a Certficate of Election to Wind Up and a Certificate of Dissolution with the Secretary of State of California on October 18, 1991.

6. As of the date of the amended application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, Under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3408 Filed 2-12-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Deferral of Ruling on Passenger Facility Charge (PFC) Applications at McCarran International Airport, Las Vegas, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

EFFECTIVE DATE: January 22, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriguez, Supervisor, Planning/Programming, Airports District Office, 831 Mitten Road, room 210, Burlingame, California 94010-1303, (415) 876-2805.

Deferral

This notice informs the public that we have received a request from Clark County, Las Vegas, Nevada, to defer our ruling on Clark County's applications to impose a PFC at McCarran International Airport for future use at McCarran, current use at North Las Vegas Air Terminal, and current and future use at Sky Harbor Airport until such time as the FAA rules on the remaining PFC applications to impose at McCarran for concurrent use at McCarran under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). Accordingly, we are deferring, until not later than February 26, 1992, the approval/disapproval of Clark County's PFC applications.

Date: January 29, 1992.

Lowell H. Johnson,

Manager, Grants-in-aid Division.

[FR Doc. 92-3079 Filed 2-12-92; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. 07; Notice 1]

Freightliner Corporation; Receipt of Petition for Determination of Inconsequential Noncompliance

Freightliner Corporation (Freightliner) of Portland, Oregon, has determined that

some of its trucks and trailers fail to comply with 49 CFR 571.106, "Brake Hoses," and has filed an appropriate report pursuant to 49 CFR part 573. Freightliner has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15. U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgement concerning the merits of the petition.

Freightliner determined that certain air brake hoses installed in 45,000 trucks and trailers failed to comply with the adhesion requirement of Standard No. 106. The suspect hose assemblies were manufactured by the Weatherhead Division of Dana Corporation and received by Freightliner from April 1988 through May 1990. Freightliner supports its petition with the following:

The majority of this population has been in service in excess of 200,000 miles with a significant portion in excess of 300,000 miles. The operation, service, and warranty of these vehicles has been reviewed with no indication of any problems relating to hose layer separation.

The adhesion requirement of FMVSS 106 is not applicable to a pressurized brake system as used on Freightliner vehicles but is more relevant in a vacuum application. This is supported by technical data supplied by Weatherhead. Freightliner therefore expects and has experienced acceptable performance of the subject brake hose assemblies.

Freightliner has reviewed the petitions from Navistar, Mack, Volvo-MG, General Motors and Blue Bird and agrees with their conclusions which apply equally to Freightliner brake systems.

The agency has acted favorably on the Navistar and Mack petitions (56 FR 51440). Freightliner requests that the agency also grant this petition as the noncompliance is inconsequential to motor vehicle safety.

Interested persons are invited to submit written data, views and arguments on the petition of Freightliner, described above. Comments should refer to the Docket Number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC, 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: March 16, 1992.

Authority: 15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on February 7, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-3430 Filed 2-12-92; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 92-06, Notice]

The Kelly-Springfield Tire Co.; Receipt of Petition for Determination of Inconsequential Noncompliance

The Kelly-Springfield Tire Company (Kelly-Springfield) of Cumberland, Maryland, has determined that 1,848 of its tires fail to comply with 49 CFR 571.109, Federal Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires-Passenger Cars," and has filed an appropriate report pursuant to 49 CFR part 573. Kelly-Springfield has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgement concerning the merits of the petition.

Paragraph S4.3 of Standard No. 109 specifies that, "each tire shall have permanently molded into or onto both sidewalls, in letters and numerals not less than 0.078 inches high, the * * * (e) Actual number of plies in the sidewall, and the actual number of plies in the tread area if different."

During the period of November 3, 1991 to December 7, 1991, Kelly-Springfield produced 1,848 P195/60R15 Cordovan Grand Prix Radial G/T tires which did not comply with Standard No. 109. The subject tires were mislabeled "Tread 4 Plies (2 Polyester Cord + 2 Steel Cord), Sidewall 2 Plies (Polyester Cord)" on the non-serial sidewall. The correct information should have read "Tread 3 Plies (1 Polyester Cord + 2 Steel Cord), Sidewall 1 Ply (Polyester Cord)" as marked on the serial sidewall. The error occurred as a result of using an incorrectly stamped mold. Kelly-Springfield supports its petition for inconsequential noncompliance with the following:

All other labeling requirements as specified in FMVSS-109 Paragraph S4.3 (a) thru (g) are correct and comply to FMVSS-109 in all respects including the load and inflation pressure information. Additionally, all tires shipped with the above stated condition were properly labeled on the tread with the actual number of plies in the sidewall, and the actual number of plies in the tread area.

Interested persons are invited to submit written data, views and argumants on the petition of Kelly-Springfield, described above. Comments should refer to the Docket Number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC, 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: March 16, 1992.

Authority: 15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on February 7, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-3431 Filed 2-12-92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: February 7, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submissions(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of the Public Debt

OMB Number: New.
Form Number: PD F 1849.
Type of Review: New collection.
Title: Disclaimer and Consent with Respect to United States Savings Bonds/Notes.
Description: This form is used to obtain a disclaimer and consent as the result of an error in registration or otherwise, the payment, refund of the purchase price, or reissue as requested by one person would appear to affect the right, title or interest of some other person.
Respondents: Individuals or households.
Estimated Number of Respondents: 7,000.
Estimated Burden Hours Per Response: 6 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 700 hours.

OMB Number: New.
Form Number: PD F 2001.
Type of Review: New collection.
Title: Release.
Description: This form is used by the owner, coowner, or other person entitled to ratify payment of Savings Bonds/notes and release the United States of America from any liability.
Respondents: Individuals or households.
Estimated Number of Respondents: 200.
Estimated Burden Hours Per Response: 6 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 20 hours.

OMB Number: 1535–0062.
Form Number: PD F 2966.
Type of Review: Extension.
Title: Special Bond of Indemnity to the United States of America.
Description: This form is used by the purchaser of Savings Bonds in a chain letter scheme to request refund of the purchase price of the bonds.
Respondents: Individuals or households.
Estimated Number of Respondents: 5,000.
Estimated Burden Hours Per Response: 8 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 665 hours.
Clearance Officer: Rita DeNagy (202) 447–1315, Bureau of the Public Debt, room 137, BEP Annex, 300 13th Street, SW., Washington, DC 20239–0001.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–3461 Filed 2–12–92; 8:45 am]

BILLING CODE 4810–40–M

Public Information Collection Requirements Submitted to OMB for Review

Date: February 6, 1992.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171, Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Departmental Offices

OMB Number: 1505–0117.
Form Number: TD F 90–22.36.
Type of Review: Reinstatement.
Title: Panamanian Transactions Regulations.
Description: Submissions will provide the USG with information to be used in administering the continued blocking of Panamanian government assets which remain blocked after termination of the national emergency.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents: 20.
Estimated Burden Hours Per Response: 2 hours.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 40 hours.
Clearance Officer: Lois K. Holland (202) 566–6579, Departmental Offices, room 3171, Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–3462 Filed 2–12–92; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: February 6, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0035.
Form Number: ATF F 5000.21.
Type of Review: Extension.
Title: Referral of Information.
Description: ATF asks the Federal agency or State or local regulatory compliance agency to respond as to any action will be taken and if so that action planned on referrals of potential violations of Federal, State or local law discovered by ATF personnel during investigations, also used to evaluate effectiveness of these referrals.
Respondents: State or local governments, Federal agencies or employees.
Estimated Number of Respondents: 500.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of response: On occasion.
Estimated Total Reporting Burden: 500 hours.

OMB Number: 1512–0138.
Form Number: ATF F 5120.20 (2605).
Type of Review: Extension.
Title: Certification of Tax Determination-Wine.
Description: Wine that has been manufactured, produced, bottled or packaged in bulk containers in the U.S. and then exported, may have the revenue tax already tax already paid or determined on the refund to the exporter. The form validates from the producing winery that the wine was produced in the U.S. and was taxpaid on withdrawal from bond.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 1,000.
Estimated Burden Hours Per Respondent: 30 minutes.
Frequency of response: On occasion.
Estimated Total Reporting Burden: 500 hours.
Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Butget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–3463 Filed 2–12–92; 8:45 am]

BILLING CODE 4810–31–M

Office of Thrift Supervision

Advanced Federal Savings Bank Northridge, CA; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Advanced Federal Savings Bank, Northridge, California, on January 23, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–3432 Filed 2–12–92; 8:45 am]

BILLING CODE 6720–01–M

Crossland Federal Savings Bank; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in Section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Federal Deposit Insurance Corporation as sole Conservator for CrossLand Federal Savings Bank, Brooklyn, New York, on January 24, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–3433 Filed 2–12–92; 8:45 am]

BILLING CODE 6720–01–M

Hansen Federal Savings Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owner's Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Hansen Federal Savings Association, Hammonton, New Jersey, on January 10, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–3435 Filed 2–12–92; 8:45 am]

BILLING CODE 6720–01–M

Hansen Federal Savings Bank; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Hansen Federal Savings Bank, Palm Beach Gardens, Florida, on January 10, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–3434 Filed 2–12–92; 8:45 am]

BILLING CODE 6720–01–M

Security Federal Savings Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Security Federal Savings Association, Panama City, Florida, on January 31, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–3436 Filed 2–12–92; 8:45 am]

BILLING CODE 6720–01–M

Advanced Savings Bank, F.S.B. Northridge, Ca; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Advanced Savings Bank, F.S.B., Northridge, California, OTS No. 8004, on January 23, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR doc. 92–3437 Filed 2–12–92; 8:45 am]

BILLING CODE 6720–01–M

Crossland Savings, FSB; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owner's Act, the Office of Thrift Supervision has duly appointed the Federal Deposit Insurance Corporation as sole Receiver for CrossLand Savings, FSB, Brooklyn, New York (OTS No. 7812), on January 24, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–3438 Filed 2–12–92; 8:45 am]

BILLING CODE 6720–01–M

Hansen Savings Bank; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owner's Loan Act, the Office of Thrift Superivison has duly appointed the Resolution Trust Corporation as sole Receiver for Hansen Savings Bank, Palm Beach Gardens, Florida, OTS No. 8060, on January 10, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–3439 Filed 2–12–92; 8:45 am]

BILLING CODE 6720–01–M

Hansen Savings Bank, SLA, Hammonton, NJ; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in Section 5(d)(2)(C) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Hansen Savings Bank, SLA, Hammonton, New Jersey, OTS No. 6268, on January 10, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–3440 Filed 2–12–92; 8:45 am]

BILLING CODE 6720–01–M

Home Federal Savings and Loan Association, F.A.; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision

(F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Home Federal Savings and Loan Association, F.A., Algona, Iowa ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on January 31, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-3441 Filed 2-12-92; 8:45 am]

BILLING CODE 6720-01-M

Pelican Homestead and Savings Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Pelican Homestead and Savings Association, Metairie, Louisiana, OTS No. 3584, on January 31, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-3442 Filed 2-12-92; 8:45 am]

BILLING CODE 6720-01-M

Perpetual Savings Bank, F.S.B.; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Perpetual Savings Bank, F.S.B., McLean, Virginia, OTS No. 6579, on January 10, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-3443 Filed 2-12-92; 8:45 am]

BILLING CODE 6720-01-M

Security Federal Savings Bank of Florida; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in Section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Security Federal Savings Bank of Florida, Panama City, Florida (OTS No. 5587), on January 31, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-3444 Filed 2-12-92; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 16, 1992.

Dated: February 6, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy, Assistant Secretary for Information Resources Policies and Oversight.

Extension

1. Application of Surviving Spouse or Child for REPS Benefits, VA Form 21-8924.

2. The form serves as the application for benefits under the REPS (Restored Entitlement Program for Survivors) program.

3. Individuals or households.

4. 2,500 hours.

5. 20 minutes.

6. On occasion.

7. 7,500 respondents.

[FR Doc. 92-3447 Filed 2-12-92; 8:45 am]

BILLING CODE: 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Patti Viers, Records Management Service (723), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3172.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 16, 1992.

Dated: February 6, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Extension

1. Certification of Inability to Pay Transportation Cost, VA Form 2323 (formerly VA Form 70-2323).

2. This form is used by veteran claimants to provide income information which will form the basis for a determination as to the claimant's eligibility for reimbursement of travel cost incurred to obtain VA benefits.

3. Individuals or households.

4. 27,787 Hours.

5. 8 minutes.

6. Annually.

7. 208,400 respondents.

[FR Doc. 92-3448 Filed 2-12-92; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if appliable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 16, 1992.

Dated: February 6, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Revision

1. Designation of Beneficiary, VA Form 29-336.

2. The form is used by the insured to designate a beneficiary and select an optional settlement to be used when the insurance matures by death. The information is requested to determine the claimants eligibility to receive the proceeds.

3. Individuals or housholds.

4. 13,917 hours.

5. 10 minutes.

6. On occasion.

7. 83,500 respondents.

[FR Doc. 92-3449 Filed 2-12-92; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 16, 1992.

Dated: February 6, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Reinstatement

1. Claim for Veterans Mortgage Life Insurance, VA Form 29-0549.

2. The form is used by the mortgage holder to apply for the proceeds of Veterans Mortgage Life Insurance (VMLI). The information is used to process the mortgage holder's claim.

3. Businesses or other for-profit.

4. 250 hours.

5. 60 minutes.

6. On occasion.

7. 250 respondents.

[FR Doc. 92-3450 Filed 2-12-92; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 16, 1992.

Dated: February 6, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Extension

1. Veterans Mortgage Life Insurance Health Statement, VA Form 29–0562.
2. The form will all VA to obtain health information from veterans applying for Veterans Mortgage Life Insurance (VMLI). The information is used to determine if the veteran meets the health requirements necessary for granting VMLI.
3. Individuals or households.
4. 20 hours.
5. 5 minutes.
6. On occasion.
7. 240 respondents.

[FR Doc. 92–3451 Filed 2–12–92; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 16, 1992.

Dated: February 6, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Reinstatement

1. Veterans Mortgage Life Insurance Inquiry, VA Form 29–0543.
2. The form is used by VA to ensure proper maintenance of Veterans Mortgage Life Insurance accounts.
3. Individuals or households.
4. 45 hours.
5. 5 minutes.
6. On occasion.
7. 540 respondents.

[FR Doc. 92–3452 Filed 2–12–92; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 30
Thursday, February 13, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Tuesday, February 18, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 10, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–3584 Filed 2–11–92; 10:01 am]

BILLING CODE 6210–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, February 19, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 11, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–3665 Filed 2–11–92; 3:34 pm]

BILLING CODE 6210–01–M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 1:30 p.m., February 18, 1992.

PLACE: 5th Floor, Conference Room, 805 Fifteenth Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the January 21, 1992, Board meeting
2. Labor Department briefing on audit plans for 1992
3. Thrift Savings Plan activity report by the Executive Director
4. Review of completed audit reports—
   "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Forfeiture Process"
   "Pension and Welfare Benefits Administration Review of Thrift Savings Plan System Enhancement Methodology"
   "Pension and Welfare Benefits Administration Review of USDA/OFM/ National Finance Center Backup, Recovery, and Contingency Planning for the Thrift Savings Plan"
   "Pension and Welfare Benefits Administration Review of National Finance Center Access Control and Security Over Thrift Savings Plan Resources"
   "Pension and Welfare Benefits Administration Review of National Finance Center Software Change Controls for Thrift Savings Plan Resources"
   "Pension and Welfare Benefits Administration Review of the Office of Finance and Management National Finance Center Billing Process for the Thrift Savings Plan"
   "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan users Documentation at the National Finance Center"
5. Review of investment policy

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 523–5660.

Dated: February 11, 1992.

Francis X. Cavanaugh,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 92–3655 Filed 2–11–92; 2:14 pm]

BILLING CODE 6760–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Agenda

Failure to Publish Notice of Meeting in the **Federal Register** (transcript of the open portion of the meeting is available by contacting Executive Court Reporting Service 301–565–0064)

TIME AND DATE: 9:30 a.m., Tuesday, February 4, 1992.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20024.

STATUS: The first item is open to the public. The last two items are closed under Exemption 10 of the Government in Sunshine Act.

MATTERS TO BE CONSIDERED:

5651—Hazardous Materials Special Investigation Report: Cargo Tank Rollover Protection
5638—Opinion and Order: Administrator v. Latham, Docket SE–10009; disposition of respondent's appeal
5642—Opinion and Order: Administrator v. Bass, Docket SE–8872; disposition of respondent's appeal

NEWS MEDIA CONTACT: Telephone (202) 382–0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Dated: February 10, 1992.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 92–3654 Filed 2–11–92; 2:13 pm]

BILLING CODE 7533–01–M

U.S. RAILROAD RETIREMENT BOARD

Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on February 18, 1992, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

(1) Backlog reductions (Task Force Report/ Administrative Finality).

(2) Special Service Award recommendation—92-007 G for Employees in the Chicago, Illinois District Office.
(3) State Wage Matching Program—Commonwealth of Massachusetts.
(4) Medical Contract.
(5) Medical Fee Schedule.
(6) Regulations—Part 203, employees Under the Act.
(7) Regulations—Part 230, Reduction and Non-Payment of Annuities by Reason of Work.
(8) Final Rule—Part 255, Recovery of Overpayments.
(9) Regulations—Parts 202 and 301, Employers Under the Railroad Retirement Act and Railroad Unemployment Insurance Act.
(10) Board Order (Approved 12-17-91) Setting Forth Board's Policy on Disability Annuity Applications for Employees in Compensated Service.
(11) 1992 Railroad Retirement Handbook (Blue Book).

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, COM No. 312-751-4920, FTS No. 386-4920.

Dated: February 7, 1992.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 92-3596 Filed 2-11-92; 11:23 am]

BILLING CODE 7905-01-M

UNITED STATES DEPARTMENT OF AGRICULTURE

RURAL TELEPHONE BANK, USDA

ACTION: Regular Meeting of Board of Directors.

TIME AND DATE: 9:15 a.m., Tuesday, February 25, 1992.

PLACE: The Renoir Room, 2nd Floor, Loew's L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Blaine D. Stockton, Jr., Assistant Secretary, Rural Telephone Bank, (202) 382-9552.

AGENDA:

I. Call to Order
II. Report of Board Member Election Results
III. Swearing-in of New Board Members
IV. If necessary, provide procedures for valid election and resolve any tie votes
V. Approval of Minutes of the October 30, 1991, RTB Board Meeting
VI. Loans Approved in the first quarter of FY 1992
VII. Financial Statements for the first quarter of FY 1992
VIII. Report on Requests for Waiver of Prepayment Premiums
IX. Summary Report on McDermott, Will & Emery Presentation to Privatization Committee and Applicability of the Sunshine Act to Committee Operations
X. Role of Counsel to the RTB
XI. Federal Credit Reform Applicability to the RTB
XII. RTB Meetings
a. Schedule for 1992
b. Location for the next meeting
XIII. Adjournment.

Dated: February 11, 1992.

Michael M.F. Liu,

Acting Governor.

[FR Doc. 92-3609 Filed 2-11-92; 1:09 pm]

BILLING CODE 3410-15-M

Corrections

Federal Register
Vol. 57, No. 30
Thursday, February 13, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 91-123]

Veterinarians Accredited by the Mexican Government

Correction

In proposed rule document 92-2011 beginning on page 3145 in the issue of Tuesday, January 28, 1992, make the following correction:

§ 92.429 [Corrected]

On page 3147, in the second column, in § 92.429, in the second line, after "veterinarian" insert "of the Mexican Government" would be removed and the phrase "certificate".

BILLING CODE 1505-01-D

FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052-AB25

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Management of Investments; Liquidity; Interest Rate Risk; Eligible Investments

Correction

In proposed rule document 91-30015 beginning on page 65691 in the issue of Wednesday, December 18, 1991, make the following corrections:

1. On page 65691, in the 2nd column, under **FOR FURTHER INFORMATION CONTACT:**, in the 5th line, after "4231" insert a "," and in the 12th line, after "4444" insert a ".".

2. On the same page, in the third column, in the second full paragraph, in the ninth line, "profolios" should read "portfolios".

3. On page 65692, in the first column, in the first line, "the" should read "to".

4. On page 65693, in the 2nd column, in the 14th line, "to" should read "so".

5. On the same page, in the same column, in the first full paragraph, in the 14th line, "loads" should read "loans".

6. On page 65694, in the 2nd column, in the first full paragraph, in the 9th line, "not" should read "now" and in the 12th line, "for" should read "from".

7. On page 65697:

a. In the first column, in the third line, "for" should read "For".

b. In the same column, in the second full paragraph, in the tenth line, "bands" should read "banks".

c. In the second column, in the second full paragraph, in the seventh line, after "existing" insert "§ § 615.5140(a)(11) and (12) into a single provision,".

d. In the third column, in the ninth line, after "commercial" insert "and finance".

e. In the same column, in the third full paragraph, in the fifth line "diversity" should read "diversify".

8. On page 65698, in the first column, in the first full paragraph, in the first line, "§ 615.5410(a)(13)" should read "§ 615.5140(a)(13)" and in the eighth line, "Fram" should read "Farm".

9. On the same page, in the second column, in the third full paragraph, "BX" should read "BC".

10. On page 65699, in the first column, in the third line, "1986" should read "1987".

§ 615.5131 [Corrected]

11. On page 65700, in the first column, in § 615.5131(k), in the sixth line, "specified" should read "specific".

12. On the same page, in the second column, in § 615.5131(r), in the third line, § 615.5201(1) should read "§ 615.5201(l)".

§ 615.5134 [Corrected]

13. On the same page, in the third column, in § 615.5134(c), in the ninth line, "exits" should read "exists".

§ 615.5135 [Corrected]

14. On page 65701:

a. In the first column, in § 615.5135(d) in the second line from the bottom, "or" should read "of".

b. In the same column, in the amendatory instruction 7., in the fifth line, "paragraph" should read "paragraphs".

§ 615.5140 [Corrected]

c. In the second column, in § 615.5140(a)(2)(ii), in the fifth line, "fixed" should read "fixed-rate".

d. In the same column, in § 615.5140(a)(2)(iii), in the seventh line, "purpose" should read "purposes".

e. In the same column, in § 615.5140(a)(5), in the 11th line, "services" should read "service".

§ 615.5141 [Corrected]

15. On page 65702, in the first column, in § 615.5141, in the second line, "of" should read "or".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Meeting

Correction

In notice document 92-1601 appearing on page 2752 in the issue of Thursday, January 23, 1992, in the first column, in the file line at the end of the document, "FR Doc. 92-1602" should read "FR Doc. 92-1601".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 85F-0469]

Indirect Food Additives: Polymers

Correction

In rule document 92-2403 beginning on page 3938 in the issue of Monday, February 3, 1992, make the following corrections:

1. On page 3938:

a. In the first column, under **SUMMARY:**, in the fourth line, "resin" should read "resins".

b. In the second column, under **SUPPLEMENTARY INFORMATION:**, in the eighth line, "(21 CFR 177.1850)" should read "(21 CFR 177.1580)", and in the 10th line, after "by" insert "the".

c. In the third column, in the first full paragraph, in the eighth line, after

"establishes" insert "that", and in the ninth line, "the" should read "that".

d. In the same column, in the same paragraph, in the 14th line, after "from" insert "the".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Change of Sponsor

Correction

In rule document 92-1741, appearing on page 2837, in the issue of Friday, January 24, 1992, make the following corrections:

1. On page 2837, in the first column, under **SUPPLEMENTARY INFORMATION:**, in the tenth line, delete "91-705".

PART 522—[CORRECTED]

2. In the same column, at the end of the authority citation, replace the colon with a period.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N-0016]

Drug Export; Optiray 240 (Ioversol Injection 51%), Optiray 300 (Ioversol Injection 64%), Optiray 350 (Ioversol Injection 74%)

Correction

In notice document 92-1552, appearing on page 2558, in the issue of Wednesday, January 22, 1992, in the first column, under **SUMMARY:**, in the third line, "Mallinckrodt" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-943-4214-10; GP2-089; OR-22029-C(WASH), et al.]

Proposed Continuation of Withdrawals; Washington

Correction

In notice document 92-1599 beginning on page 2777 in the issue of Thursday, January 23, 1992, make the following corrections:

1. On page 2778, in the first column, in the fourth line, "N." should read "W.".

2. On the same page, in the same column, in the fourth full paragraph, in the fifth line, "Cost" should read "Coast".

3. On the same page, in the same column, in the 6th full paragraph, in the 13th line, after "will" insert "be published in the **Federal Register**. The existing withdrawals will".

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30153; File No. SR-NYSE-91-37]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Amendments to Arbitration Procedures

Correction

In notice document 92-723 beginning on page 1292 in the issue of Monday, January 13, 1992, make the following correction:

On page 1292, in the third column, paragraph 6. should read as set forth below:

6. Rule 627: Awards

The NYSE proposes to amend rule 627(e) to require that an arbitration award include, in addition to the information required by the current rule, the names of counsel representing the parties and the type of product or security involved in the arbitration. The NYSE also proposes to amend rule 627 (g) to consolidate current rules 627(g) and (h) and to clarify when interest is payable on an award. The current rule provides that arbitrators may award interest as they deem appropriate. The rule also provides that all awards shall bear interest from the date of the award until payment. Amended rule 627(g) would continue to require payment of awards within thirty days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction. The proposed rule change, however, would revise the rule's current requirement for payment of interest on awards from the date of the award. The rule would provide that an award shall bear interest from the date of the award if: (1) The award is not paid within thirty days of receipt; (2) the award is the subject of a motion to vacate which is denied; or (3) the arbitrators otherwise so specify in the award.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Air Traffic Subcommittee; Unmanned Aerospace Vehicle Operations Working Group

Correction

In notice document 91-25851, appearing on page 55520, in the issue of Monday, October 28, 1991, in the third column, in the file line at the end of the document, "FR Doc. 91-25881" should read "FR Doc. 91-25851".

BILLING CODE 1505-01-D

federal register

Thursday
February 13, 1992

Part II

Commission on National and Community Service

45 CFR Chapter XXV

National and Community Service Grant Program; Final Rule

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

45 CFR Chapter XXV

National and Community Service Grant Program

AGENCY: Commission on National and Community Service.

ACTION: Final rule.

SUMMARY: The Commission on National and Community Service is issuing this final rule concerning the programs authorized by the National and Community Service Act of 1990, as amended. These programs are intended to promote national and community service among the citizens of the United States to help meet human, educational, environmental and public safety needs, particularly those related to poverty. This rulemaking is intended to govern the awarding of grants under the programs authorized by the National and Community Service Act, to delineate the requirements that must be met by recipients of funds, and to describe the activities that may be conducted under these programs.

EFFECTIVE DATE: February 13, 1992.

FOR FURTHER INFORMATION CONTACT: Anyone wishing further information concerning this rulemaking should contact: Terry Russell at 202–724–0600.

SUPPLEMENTARY INFORMATION:

Background

On November 8, 1991, the Commission on National and Community Service published a proposed rule implementing the National and Community Service Act of 1990, as amended. In response to the notice of proposed rulemaking, the Commission received over 100 comments from States, Indian Tribes, schools, higher education institutions, youth corps program sponsors, Older American Volunteer Program sponsors, and private nonprofit organizations concerned with youth, senior citizens, and volunteer service. The Commission has reviewed these comments, and made revisions to the proposed rule in response.

Summary of Comments

The Commission found comments on the proposed rule to be extremely helpful in identifying areas where greater clarity is needed, and recommending policy and technical revisions. In addition, numerous comments suggest changes that may be made only if the National and Community Service Act is amended. For example, comments suggested that living allowances and postservice benefits provided under the Act should not be allowed to affect means-tested benefits under the Social Security Act; that 14-year-olds should be included as eligible participants under the American Conservation and Youth Service Corps program; that summer programs should be expanded to include programs beginning in May; and that the Tort Claims Act should cover all participants and staff in funded programs.

Several comments suggested that the Comprehensive State Plan requirement could prove burdensome to States, and make it difficult for States just starting out to apply. Therefore, the final regulations allow States to meet the Comprehensive State Plan requirement by submitting a description of planning efforts to be conducted during the term of the grant, including a timetable for completion of the Comprehensive State Plan. Indian Tribes, which are treated as States in many provisions of the Act, will not be required to submit a Comprehensive State Plan.

Comments also suggested that provisions regarding the appointing of a State Advisory Board for National and Community Service should be revised to accommodate States that already have similar boards in place, and States that prefer other strategies for soliciting input from a broad-based group. The final regulations require all States to solicit broad-based and local input in developing the Comprehensive State Plan in a bipartisan or nonpartisan manner, through any appropriate means, including the appointment of a State Advisory Board.

Comments from both State and local organizations requested clarification of rules governing States in allocating Serve-America and American Conservation and Youth Service Corps funds to local applicants. The final regulations clarify that a State is not required to issue a formal request for proposals, but should solicit applications from a broad-based group of public and private nonprofit organizations. Under the Conservation Corps program, a State is asked to use a "reasonable" portion of its funds to make grants within the state (substate grants). The Commission declined to set a fixed percentage of funds that must be used for substate grants. The Commission anticipates that circumstances will vary from State to State depending on the cost of the State-operated program, the number of qualified local applicants within the State, and the amount of the award to the State.

Numerous comments suggested that the intergenerational focus of programs should be strengthened in the regulations. In response, the final regulations include as a purpose, "to expand full-time and part-time service opportunities for all citizens, particularly youth and older Americans." In addition, the Comprehensive State Plan was amended to include efforts to accomplish this goal.

Comments also asked for more detail regarding what is included in the five percent cap on administrative costs. As a result, we have revised the definition to provide added clarity, by first providing examples of administrative costs that will be included in the 5% cap. We have then provided examples of costs that are not administrative, but rather fall within the direct service category. Finally, we have set forth some general rules as to how, under certain circumstances, expenses should be prorated.

Several comments asked for more information about the Commission's plans for evaluation. Information about evaluation may be found in the applications and in additional written guidelines to be issued by the Commission at a later date.

Comments also requested information about the required three-week training program under part 2504. The Commission expects to design the training for full-time, part-time and special senior service participants in consultation with each grantee receiving funds under part 2504. The costs of the training need not be reflected in applications for fiscal year 1992 funds.

Comments indicated that there is confusion regarding roles for senior citizens in the Youth Corps and National and Community Service Programs.

Under the Youth Corps program senior citizens may be involved in three ways, at the discretion of the grantee. First, they may serve as Special Corps Members, as provided for in § 2503.21(c). As Special Corps Members, they will be subject to the same requirements and receive the same benefits as regular corps members. Second, they may serve as mentors for youth participants through a joint project between a youth corps and senior citizens organization, as provided for in § 2503.23. Nonparticipant volunteers may assist with the operation of the program—helping to train, supervise, or recruit participants, for example—or may work alongside participants on a project.

Under the National and Community Service program, senior citizens may be involved in three ways, again at the discretion of the grantee. First, they may be enrolled as regular full-time or part-

time participants. As full-time or part-time participants, the senior citizens would be subject to the same requirements and receive the same benefits as other participants. Second, they may be enrolled as Special Senior Service participants, who may serve for any number of hours over any period of time specified by the grantee. Special Senior Service participants do not receive post-service benefits. However, they will receive a living allowance (for part-time Special Senior Service participants, the living allowance will be prorated based on number of hours served). Third, they may serve as nonparticipant volunteers.

Additional Considerations

In an effort to ensure that funded programs are those best suited to advance the goals of the Act, the final rules add four key elements to the criteria that will be used to determine whether a proposal receives funding. These criteria are quality (of program, leadership and management); innovation; replicability; and sustainability, and are amplified in the regulations. In all cases, the final regulations retain criteria for funding specified in the statute. The key elements discussed above expand, rather than modify, those statutory criteria.

Potential applicants should be aware that they will be required to comply with the nondiscrimination provisions of the Act. These provisions provide that programs receiving assistance will not discriminate against participants or staff on the basis of race, color, national origin, sex, age, disability, or political affiliation. In addition, the statute bars religious discrimination against participants or project staff paid with funds received under the Act. Finally, the Act provides that assistance provided under its provisions constitutes Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (which bars discrimination based on race, color, or national origin), title IX of the Education Amendments of 1972 (which bars discrimination on the basis of sex), the Rehabilitation Act of 1973 (which bars discrimination on the basis of disability), and the Age Discrimination Act of 1975 (which bars discrimination on the basis of age). Regulations implementing these will be published prior to the awarding of grants.

Applicants should further be advised that Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, Administrative Requirements for Grants and Cooperative Agreements to other than State and Local Governments, and regulations for the Privacy Act, Freedom of Information Act, Sunshine Act, Government-wide Debarment and Suspension, and Government-wide Requirements for Drug-Free Workplace will also be published prior to awarding of grants.

As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects

45 CFR Part 2500

Grant programs—Social programs, Organization and functions.

45 CFR Part 2501

Grant programs—Social programs, Elementary and secondary education.

45 CFR Part 2502

Grant programs—Social programs, Colleges and Universities.

45 CFR Part 2503

Grant programs—Social programs, Youth.

45 CFR Part 2504

Grant programs—Social programs, Community development block grants, Community action programs.

45 CFR Part 2505

Grant programs—Social programs, Community development.

45 CFR Part 2506

Grant programs—Social programs, Grants administration.

For the reasons set forth in this preamble, the Commission on National and Community Service is hereby establishing a new chapter XXV, consisting of parts 2500–2506, in title 45 of the Code of Federal Regulations to read as follows:

CHAPTER XXV—COMMISSION ON NATIONAL AND COMMUNITY SERVICE

Part

PART 2500—GENERAL

Sec.

Authority: 42 U.S.C. 12501 et seq., as amended.

§ 2500.1 Purposes and goals.

The purposes and goals of this chapter are:

(a) To renew the ethic of civic responsibility in the United States;

(b) To encourage citizens, regardless of age, income or ability, to engage in full-time or part-time service to the Nation;

(c) To involve youth in programs that will benefit the Nation and improve their own lives;

(d) To enable young adults to make a sustained commitment to service by removing barriers created by high education costs, loan indebtedness and the cost of housing;

(e) To build on the network of existing Federal, State, and local programs and agencies to expand full-time and part-time service opportunities for all citizens, particularly youth and older Americans;

(f) To involve participants in activities that would not otherwise be performed by paid workers;

(g) To generate additional volunteer service hours to help meet human, educational, environmental and public safety needs, particularly those relating to poverty;

(h) To encourage institutions to volunteer their resources and energies and encourage service among their members, employees, and affiliates;

(i) To identify successful and promising community service initiatives and disseminate information about them; and

(j) To discover and encourage new leaders, especially youth leaders, and to develop individuals and institutions that demonstrate that a successful life includes serving others.

§ 2500.2 Definitions.

(a) As used in this chapter:

(1) *Act* means the National and Community Service Act of 1990 (Pub. L. 101–610, as amended).

(2) *Administrative costs or expenses* include: Costs associated with overall program administration; salaries and benefits for director and administrative staff of existing organizations that sponsor a funded program; and insurance that protects the grantee (e.g., liability insurance). Non-administrative

(direct service) Costs include: Costs relating to service delivery (services that directly benefit participants); salaries and benefits of staff who train, place, and supervise such staff; costs of providing living allowances and usual in-service education and training for participants; insurance that benefits participants; and evaluation of the program as required by the terms and conditions of the grant. Of course, particular costs charged to the proposed program might be pro-rated (with documentation) between direct services and administration. If personnel, equipment, or other resources are shared between the proposed program and unrelated programs, the costs must be pro-rated.

(3) *Adult volunteer* means:

(i) An individual who is beyond the age of compulsory schooling, including an older American, an individual with a disability, or a parent;

(ii) An employee of a private business;

(iii) An employee of a public or nonprofit agency; or

(iv) Any other individual working without financial remuneration in an educational institution to assist students or out-of-school youth.

(4) *Commission* means the Commission on National and Community Service established under section 190 of the Act.

(5) *Community-based agency* means a private nonprofit organization that is representative of a community or a significant segment of a community and that is engaged in meeting human, educational, or environmental community needs, including churches and other religious entities, public safety organizations and community action agencies.

(6) *Crew* means a team of youth corps participants organized to work jointly on a project or to engage in team activities even if participants do not work jointly on service projects.

(7) *Crew Leader* means a participant assigned to a position of responsibility or leadership over a crew of participants.

(8) *Crew Supervisor* means the adult staffperson who is responsible for supervising a crew of participants, including the crew leader.

(9) *Disability* has the same meaning given such term in section 3(2) of the Americans with Disabilities Act (42 U.S.C. 12101, et seq.).

(10) *Economically Disadvantaged* with respect to youth has the same meaning given such term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

(11) *Elementary School* means a day or residential school which provides elementary education, as determined under State law.

(12) *Indian* means a person who is a member of an Indian tribe.

(13) *Indian Lands* means any real property owned by an Indian tribe, any real property held in trust by the United States for Indian tribes, and any real property held by Indian tribes that is subject to restrictions on alienation imposed by the United States.

(14) *Indian Tribe* means an Indian tribe, band, nation, or other organized group or community, including Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that is recognized by the United States as Indians because of their status as Indians.

(15) *Institution of Higher Education* has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(16) *Local Applicant* means any eligible applicant other than a State or Indian tribe.

(17) *Local Educational Agency* has the same meaning given such term in Section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

(18) *Local Government Agency* means a public agency that is engaged in meeting human, social, educational, or environmental needs, including public safety agencies.

(19) Non-Participant Volunteer means an individual who is not a participant enrolled in a program but who assists a program funded under this Chapter by providing volunteer services.

(20) *Out-Of-School Youth* means an individual who:

(i) Has not attained the age of 27;

(ii) Has not completed college or the equivalent thereof; and

(iii) Is not enrolled in an elementary or secondary school or institution of higher education.

(21) *Participant* means an individual enrolled in a program that receives assistance under this Chapter. Participants shall not be considered employees of the program.

(22) *Partnership Program* means a program through which adult volunteers, public or private aqencies, institutions of higher education, or businesses assist a local educational agency.

(23) *Placement* means the matching of a participant with a specific project.

(24) *Program* means an activity carried out with assistance provided under this Chapter.

(25) *Program Agency* means:

(i) A Federal or State agency designated to manage a youth corps program;

(ii) The governing body of an Indian tribe that administers a youth corps program; or

(iii) A local applicant administering a youth corps program.

(26) *Project* means an activity that results in a specific identifiable service or product that otherwise would not be done with existing funds, and that does not duplicate the routine services or functions of the employer to whom participants are assigned.

(27) *Public Lands* means any lands or waters (or interest therein) owned or administered by the United States or by an agency or instrumentality of a State or local government.

(28) *Secondary School* means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(29) *Service-Learning* means a method:

(i) Under which students learn and develop through active participation in thoughtfully organized service experiences that meet actual community needs and that are coordinated in collaboration with the school and community;

(ii) That is integrated into the students, academic curriculum or provides structured time for a student to think, talk, or write about what the student did and saw during the actual service activity;

(iii) That provides students with opportunities to use newly acquired skills and knowledge in real-life situations in their own communities; and

(iv) That enhances what is taught in school by extending student learning beyond the classroom and into the community and helps to foster the development of a sense of caring for others.

(30) *Service Opportunity* means a program or project, including service-learning programs or projects, that enables participants to perform meaningful and constructive service in agencies, institutions, and situations where the application of human talent and dedication may help to meet human, educational, linguistic, public safety, and environmental community needs, especially those relating to poverty.

(31) *Special Senior Service Participant* means an individual who is age 60 or over and willing to work full-time or part-time in conjunction with a full-time national service program.

(32) *Sponsoring Organization* means an organization, eligible to receive assistance under this chapter, that has been selected to provide a placement for a participant.

(33) *State* means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau, until such time as the Compact of Free Association is ratified.

(34) *State Educational Agency* has the same meaning given such term in section 1471(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(23)).

(35) *Student* means an individual who is enrolled in an elementary or secondary school or institution of higher education on a full- or part-time basis.

(36) *Summer Program* means a youth corps program authorized under this chapter that is limited to the months of June, July, and August.

(37) *Youth Corps Program* means a program, such as a conservation corps or youth service corps program, that offers full-time, productive work (to be financed through living allowances) with visible community benefits in a natural resource or human service setting and that gives participants a mix of work experience, basic and life skills, education, training, and support services.

(b) *Authority To Make State Grants.* The Commission may, in accordance with the provisions of this chapter, make grants to States, Indian Tribes, and local applicants, to enable them to carry out programs under parts 2501, 2502, 2503, 2504, and 2505 of this chapter.

§ 2500.3 Consolidated applications.

(a) General. The Commission shall not award more than one grant during each fiscal year to each State under this Chapter. The grant will be designated for use in accordance with one or more parts of this chapter.

(b) Number of Applications. A State may apply for a grant to operate one or more of the programs described in parts 2501 through 2505 of this chapter and shall consolidate all of its applications for the conduct of programs under parts 2501 through 2505 into a single application that meets the requirements of this chapter.

(c) Multiple Use. A grant awarded to a State shall be used by the State in accordance with the applications consolidated, submitted, and approved under the parts. A State may, for example, apply to operate programs under two of the programs authorized under this chapter, but might receive funds for only one of the two programs. States may not shift funds from one program to another, and must use its grant for the program or programs designated in the application and the grant award.

(d) Comprehensive Service Plan. All applications submitted by States shall include a service plan that includes information about the programs proposed to be conducted with funds under this chapter, as well as information related to the applicant's overall strategy for expanding commitment to service. The plan shall describe:

(1) Critical human, educational, environmental, and public safety needs, particularly those needs relating to low-income communities and people, that will be addressed through institutions and individuals engaging in community service;

(2) Efforts to generate additional community service hours each year and to encourage additional individuals to engage in community service;

(3) Efforts to discover and encourage new leaders, especially youth, develop individuals and institutions that serve as strong examples of a commitment to service, and convey to all Americans the importance of serving others;

(4) Efforts to encourage young people to serve in programs that will benefit the Nation, and eliminate barriers to full- and part-time service, especially for low-income individuals;

(5) Efforts to build on the existing organizational framework of Federal, State, and local programs and agencies to expand service-opportunities, particularly for youth and older Americans;

(6) Efforts to encourage institutions, such as government, business, nonprofit organizations, and religious and educational institutions, to volunteer their resources, and encourage and facilitate community service among their members, employees, affiliates and others involved with the institution;

(7) The interrelationship among programs proposed to be funded under the Act;

(8) Joint planning efforts and partnerships undertaken to develop this plan, including any involvement of local public and private organizations, youth, low-income communities and people, or a State Advisory Board; and

(9) Such other information as specified by the State.

(e) If a State cannot complete the Comprehensive State Plan in time to submit the Plan with its application, the State may submit a plan that describes planning efforts to be conducted during the term of the grant, including a timetable for completion of a plan that covers the information required in § 2500.3(d).

§ 2500.4 Development of the Comprehensive State Plan.

(a) *General.* Each State that applies for assistance under this Part is required to solicit broad-based and local input in developing the Comprehensive State Plan in a bipartisan or nonpartisan manner. A State might, for example, establish a State Advisory Board, assign an existing bipartisan or nonpartisan committee to perform an advisory function, or hold public hearings on the plan.

(b) *Formation of a State Advisory Board.* Each State that applies for assistance under this part is encouraged to establish a bipartisan and nonpartisan State Advisory Board for National and Community Service.

(c) *Appointment of a State Advisory Board.* If a State elects to appoint a new State Advisory Board: (1)The chief executive officer shall appoint members to the State Advisory Board of National and Community Service from among:

(i) Representatives of State agencies administering community service, youth service, and job training programs;

(ii) Youth and low-income individuals; and

(iii) Representatives of labor, business, agencies working with youth, community-based organizations such as community action agencies, students, teachers, Older American Volunteer Programs as established under title II of the Domestic Volunteer Service Act of 1973, full-time youth service corps programs, school-based community service programs, higher education institutions, local educational agencies, volunteer public safety organizations, educational partnership programs, and other organizations working with volunteers.

(2) To the extent possible, the membership of the Advisory Board shall be balanced according to race, ethnicity, age, gender, and political party, and shall include individuals with disabilities.

(d) *Duties of the Board.* If the State elects to appoint a state advisory board, the Board shall assist the State agency administering a program under this chapter in:

(1) Developing the Comprehensive Service Plan described in § 2500.3(d);

(2) Coordinating programs receiving assistance under this Chapter and related programs within the State;

(3) Disseminating information concerning service programs that receive assistance under this chapter;

(4) Recruiting participants for projects that receive assistance under this chapter;

(5) Developing programs, training methods, curriculum materials, and other materials and activities related to programs receiving assistance under this chapter; and

(6) Developing an evaluation plan for the proposed program regarding its effectiveness and the achievement of proposed goals and predicted outcomes.

PART 2501—SERVE-AMERICA: PROGRAMS FOR STUDENTS AND OUT-OF-SCHOOL YOUTH

Sec.

Authority: 42 U.S.C. 12501 et seq.

§ 2501.1 Eligibility to receive grants.

(a) States and Indian Tribes whose applications are approved by the Commission are eligible to receive Serve-America operating or planning grants.

(b) Local applicants meeting the requirements in paragraph (c) of this section are eligible to receive Serve-America operating grants to conduct activities described in § 2501.9 (b), (c), and (d):

(1) From the State in which they are located, subject to the approval of the State Educational Agency; or

(2) Directly from the Commission, if the local applicant is located in a State that has not submitted an application for a Serve-America operating or planning grant.

(c) Eligibility for Serve-America grants. (1) To implement, operate, or expand a school-based service-learning program described in § 2501.9(b) of this part, a local applicant must be:

(i) A local educational agency working in partnership with one or more public or private nonprofit organizations that will make service opportunities available for participants; or

(ii) A public or private nonprofit organization that will make service opportunities available for participants, working in partnership with one or more local educational agencies;

(2) To implement, operate, or expand a community service program described in § 2501.9(c) of this part, a local applicant must be:

(i) A public or private nonprofit organization that works with disadvantaged youth working in partnership with one or more public or private nonprofit organizations that will make service opportunities available for participants; or

(ii) A public or private nonprofit organization that will make service opportunities available working in partnership with one or more public or private nonprofit organizations that work with disadvantaged youth;

(3) To implement, operate, or expand an adult volunteer or partnership program described in § 2501.9(d) of this part, a local applicant must be:

(i) A local educational agency working in partnership with one or more public or private nonprofit organizations or private forprofit businesses; or

(ii) A public or private nonprofit organization working in partnership with one or more local educational agencies;

(4) For the purposes of this section, the term "partnership" means pursuant to a written agreement specifying the responsibilities of each partner with respect to the development and operation of the program proposed to be conducted under this part.

General Application Provisions and Procedures

§ 2501.2 State application.

(a) An application for Serve-America funds may be made by the State, acting through the State Educational Agency. The application must contain:

(1) The amount of funds requested for each fiscal year during the period covered by the State plan described in § 2501.5;

(2) An assurance that the State will comply with the requirements of this chapter;

(3) A budget of expenditures, which provides an estimate of the use and distribution of Serve-America funds during the period covered by the application consistent with the provisions of § 2501.5 of this part;

(4) An assurance that the State will ensure compliance with the Drug-Free Workplace Requirements for Federal Grant Recipients under section 5153 through 5158 of the Anti-Drug Abuse Act of 1988 (41 U.S.C. 702–707);

(5) The State Serve-America Proposal, as required in § 2501.5 of this part;

(6) The number of individuals currently involved in community service as participants in programs proposed to receive funds under this part (if known);

(7) The number of additional participants and non-participant volunteers expected to become involved in community service under the program (if known);

(8) A description of how non-participant volunteers will assist the program, (if known); and

(9) Such other information as specified by the Commission.

(b) Applications must be submitted annually at such time and in such manner as prescribed by the Commission.

§ 2501.3 Local application.

An application for Serve-America funds made by local applicants eligible for grants under § 2501.1(b) of this part must contain:

(a) The amount of funds requested for the period covered by the application;

(b) An assurance that the local applicant will comply with the requirements of this chapter;

(c) A budget of expenditures, which provides an estimate of the use of Serve-America funds during the period covered by the application;

(d) An assurance that the applicant will ensure compliance with the Drug-Free Workplace Requirements for Federal Grant Recipients under sections 5153 through 5158 of the Anti-Drug Abuse Act of 1988 (41 U.S.C. 702–707);

(e) A local Serve-America proposal, as required in § 2501.6 of this part;

(f) A copy of a written agreement between the partners stating that the proposed program was jointly developed by the parties and that the program will be jointly executed by the parties;

(g) The number of individuals currently involved in community service as participants in programs proposed to receive funds under this part (if applicable);

(h) The number of additional participants and non-participant volunteers expected to become involved in community service under the program;

(i) A description of how non-participant volunteers will assist the program; and

(j) Such other information as specified by the Commission or the State Educational Agency.

§ 2501.4 Assurances.

(a) The State Serve-America Proposal must include assurances that:

(1) The State will ensure that local applicants are funded in accordance with the provisions of this chapter;

(2) The State will keep such records and provide such information to the Commission as may be required for fiscal audits and program evaluation;

(3) The State will assure that local applicants comply with the requirements of this Chapter; and

(4) The State will develop the State Serve-America proposal in consultation with, and solicit information from, a broad-based group of public and private nonprofit eligible organizations.

(b) The local Serve-America proposal must include assurances that:

(1) The local applicant will assure compliance with the requirements of this chapter;

(2) Prior to the placement of a participant, the program will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program;

(3) An assurance that the applicant will develop an age-appropriate learning component for participants in the program that shall include a chance for participants to reflect on service experiences and expected learning outcomes; and

(4) Assurances that participants in the program will be provided with information concerning VISTA, the Peace Corps, the GI Bill, full-time Youth Service Corps and National Service programs receiving assistance under this Title, and other service options and their benefits (such as student loan deferment and forgiveness) as appropriate.

§ 2501.5 State Serve-America Proposal.

(a) A State Serve-America Proposal for an operating grant must cover a period of not more than three years and must contain a description of the manner in which:

(1) Local applicants will be ranked by the State according to the criteria described in § 2501.16 of this part and in a manner that ensures the equitable treatment of local applications submitted by both local educational agencies and community-based organizations;

(2) Service programs within the State will be coordinated with each other and with other Federally assisted education programs, training programs, and other appropriate programs that serve youth;

(3) Cooperative efforts among local educational agencies, local government agencies, community-based agencies, businesses, and State agencies to develop and provide service opportunities, including those that involve the participation of urban, suburban, and rural youth working together, will be encouraged;

(4) Economically and educationally disadvantaged youths, including individuals with disabilities, youth with limited basic skills or learning disabilities, youth in foster care who are becoming too old for foster care, youth of limited English proficiency, and homeless youth are assured of service opportunities;

(5) Service programs that receive assistance under this Part will be evaluated for effectiveness in achieving program objectives;

(6) Programs that receive assistance under this Part will serve urban and rural areas and tribal areas that exist within such State;

(7) Training and technical assistance will be provided to local grantees by qualified and experienced individuals employed by the State or through grant or contract with experienced content specialist and youth service resource organizations;

(8) Non-Federal assistance will be used to expand service opportunities for students and out-of-school youth;

(9) Information and outreach services will be disseminated and utilized to ensure the involvement of a broad range of organizations, particularly community-based organizations; and

(10) The State will give special consideration to providing assistance to projects that will provide academic credit to participants or are integrated into the academic program of the school.

(b) A State Serve-America Proposal for a planning grant must cover a period of not more than one year, describe activities mentioned in § 2501.9(a) of this part proposed to be conducted under the plan, including a description of activities proposed to be accomplished through grants and contracts with qualified organizations and individuals.

§ 2501.6 Local Serve-America Proposal.

(a) A local Serve-America Proposal must: (1) Establish and specify the membership and role of an advisory committee. Representatives of community-based agencies including community action agencies, service recipients, youth-serving agencies, youth, parents, teachers, administrators, agencies that serve older adults, school board members, labor, business, and individuals with disabilities, if any such entities exist in the community, shall be offered the opportunity to serve on the committee;

(2) Describe the goals of the program, which shall include goals that are quantifiable, measurable, and demonstrate any benefits that flow from the program to the participants and the community;

(3) Describe service opportunities to be provided under the program that shall include evidence that participants will make a sustained commitment to the service project;

(4) Describe the manner in which the participants in the program will be recruited, including any special efforts that will be utilized to recruit out-of-school youth with the assistance of community-based agencies;

(5) Describe the manner in which participants in the program were or will be involved in the design and operation of the program;

(6) Describe the qualifications, and responsibilities of the coordinator of the program assisted under this part;

(7) Describe pre-service and in-service training for supervisors, teachers, and participants in the program;

(8) Describe the manner in which exemplary service will be recognized;

(9) Describe any potential resources that will permit continuation of the program, if needed, after the assistance received under this part has ended; and

(10) Disclose whether the program plans include preventing and treating school-age drug and alcohol abuse and dependency.

(b) If the local applicant intends to operate a program described in § 2501.9 (b) or (c) of this part, the local Serve-America proposal submitted by the applicant must include:

(1) A disclosure of whether or not the participants will receive academic credit for participation in the program and whether the program is integrated into the academic program of the school;

(2) The target levels of participants in the program and the target levels for the hours of service that such participants will provide individually and as a group;

(3) The proportion of expected participants in the program who are educationally or economically disadvantaged, including participants with disabilities;

(4) The ages or grade levels of expected participants in the program; and

(5) Other relevant demographic information concerning such expected participants.

(c) If the local applicant intends to operate a program described in § 2501.9(d) of this part, the local Serve-America proposal must describe the students who will be assisted through such a program, including the ages and grade levels of such students.

§ 2501.7 Distribution of funds.

(a) If less than $20,000,000 is made available in each fiscal year to carry out parts 2501 and 2502, the Commission may award operating or planning grants to States and Indian Tribes, and to eligible local applicants in States that have not applied for funding under this part, on a competitive basis.

(b) If $20,000,000 or more is made available to carry out parts 2501 and 2502, the Commission will:

(1) Reserve not more than 1 percent for payments to Indian Tribes, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and Palau, until such time as the Compact of Free Association is ratified to be allotted in accordance with their respective needs;

(2) Allot the remaining funds as follows: (i) From 50 percent of such remainder the Commission shall allot to each State an amount which bears the same ratio to 50 percent of such remainder as the school age population of the State bears to the school-age population of all States.

(ii) From 50 percent of such remainder the Commission shall allot to each State an amount which bears the same ratio to 50 percent of such remainder as allocations to the State for the previous fiscal year's appropriation under the basic grant of chapter 1 of title 1 of the Elementary and Secondary Education Act of 1965 bears to such allocations to all States.

(iii) For purposes of this paragraph: (A) The term "school-age population" means the population aged 5 through 17, inclusive;

(B) The term "State" includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(3) For any year in which a State is solely carrying out planning activities pursuant to a grant described in § 2501.10 of this part, a State may be paid not more than 25 percent of its allotment under paragraph (b)(2) of this section;

(4) If any State does not have an application approved under § 2501.8 of this part, the Commission may use the allotment the State would otherwise have received under paragraph (b)(2) of this section to make grants to eligible local applicants located within the State using the priority criteria described in § 2501.16 of this part; and

(5) Funds remaining after the requirements of paragraphs (b) (1) through (4) of this section have been carried out will be reallotted to States as the Commission determines appropriate.

§ 2501.8 Approval.

(a)(1) If § 2501.7(a) of this part applies, the Commission will take into account whether the proposed plan meets the requirements of this Chapter and the appropriate criteria in § 2501.16 of this part in approving applications to receive grants.

(2) If § 2501.7(b) of this part applies, the Commission shall approve applications submitted by States, Indian Tribes, and eligible local applicants in States that have not applied for funding if such applications comply with the provisions of this Chapter and the appropriate criteria in § 2501.16. Applications that comply with the provisions of this Chapter but do not fully comply with the appropriate criteria in § 2501.16 may be approved for planning grants. The Commission may, at its discretion, assist applicants in bringing their applications into compliance.

(b) Applications submitted in the second or third year of a multi-year proposal will be approved if the Commission determines the applicant has made satisfactory progress under the proposal and if appropriated funds are available.

§ 2501.9 Uses of funds.

Grantees may use funds provided under this part for:

(a) Planning and building State capacity (which may be accomplished through grants and contracts with qualified organizations) for implementing statewide, school-aged service-learning programs, including:

(1) Pre-service and in-service training for teachers, supervisors, and personnel from community organizations in which service opportunities will be provided that will be conducted by qualified individuals or organizations that have experience in service-learning programs;

(2) Developing service-learning curricula, including age-appropriate learning components for students to analyze and apply their service experiences;

(3) Forming local partnerships to develop school-based community service programs in accordance with this part;

(4) Devising appropriate methods for research and evaluation of the educational value of youth service opportunities and the effect of youth service programs on communities;

(5) Establishing effective outreach and dissemination to ensure the broadest possible involvement of nonprofit community-based organizations and youth-service agencies with demonstrated effectiveness in their communities; and

(6) Integrating service-learning into academic curricula.

(b) The implementation, operation, or expansion of school-based service-learning programs.

(c) The implementation, operation, or expansion of community service programs for school dropouts, out-of-school youth and other youth.

(d) The implementation, operation, or expansion of programs involving adult volunteers in schools, or partnerships of schools and public or private organizations, to improve the education of at-risk students, school dropouts, and out-of-school youth.

§ 2501.10 Planning grants.

The Commission may make planning grants to States or Indian Tribes to conduct activities described in § 2501.9(a) of this part. Such grants will be not more than 25 percent of its formula allotment described in § 2501.7(b)(2) of this part, provided that appropriated funds are available, or, if § 2501.7(a) of this part applies, in an amount determined by the Commission to be sufficient to conduct the proposed activities. States are encouraged to use planning grants to assist potential local applicants plan Serve-America programs.

§ 2501.11 Term of grant.

(a) Grants to States and Indian Tribes, other than planning grants, shall be for a term of not more than three years, subject to annual appropriations.

(b) Grants made directly to local applicants by the Commission shall be for a term of not more than one year.

(c) Planning grants shall be for a term of not more than one year.

§ 2501.12 Federal share.

(a) The Federal share of an operating grant for a project under this part may not exceed:

(1) 90 percent of the total cost of a project for the first year for which the project receives assistance under this part;

(2) 80 percent of the total cost of a project for the second year for which the project receives assistance under this part; and

(3) 70 percent of the total cost of a project for the third year for which the project receives assistance under this part.

(b) The non-Federal share of the costs of the project may be in cash from public or private non-Federal funds or in kind.

(c) If a grantee is unable to pay the non-Federal share of the costs of the project due to lack of resources, the

grantee may request a waiver of the requirements of paragraph (a) of this section. A request for a waiver must be in writing to the Commission and will be approved if the Commission determines that such a waiver would be equitable due to a lack of resources at the State or local level.

§ 2501.13 Reservation of funds.

A State receiving a Serve-America grant other than a planning grant shall use:

(a) Not more than 5 percent of such funds for administrative costs for any fiscal year;

(b) Not more than 10 percent of such funds to build capacity through training, technical assistance, curriculum development, and coordination activities, described in § 2501.9(a) of this part;

(c) Not less than 60 percent of such funds to carry out school-based service learning programs described in § 2501.9(b) of this part;

(d) Not less than 15 percent of such funds to carry out community-based service programs described in § 2501.9(c) of this part; and

(e) Not more than 10 percent of such funds to carry out adult volunteer and partnership programs described in § 2501.9(d) of this part.

§ 2501.14 Authorized uses of funds.

(a) Grants made under this part may be used for the supervision of participating students, including teacher stipends, program administration, training, reasonable transportation costs, insurance, evaluations, and for other reasonable expenses.

(b) Grants made available under this part may not be used to pay any stipend, allowance, or other financial support to any participant, except reimbursement for transportation, meals, and other reasonable out-of-pocket expenses directly related to participation in a program assisted under this part.

§ 2501.15 Participation of children and teachers from private schools.

To the extent consistent with the number of children in the State or in the school district of a local educational agency receiving funds under this part who are enrolled in private nonprofit elementary and secondary schools, such State or agency shall (after consultation with appropriate private school representatives) make provision:

(a) For the inclusion of services and arrangements for the benefit of such children so as to assure the equitable participation of such children in the programs or projects implemented to carry out the purposes and provide the benefits described in this part;

(b) Where applicable, for the training of the teachers of such children so as to assure the equitable participation of such teachers in the programs of projects implemented to carry out the purposes and provide the benefits described in this part; and

(c) If a State or local educational agency or institution of higher education is prohibited by law from providing for the participation of children or teachers from private nonprofit schools as required by paragraph (a) of this section, or if the Commission determines that a State or local educational agency substantially fails or is unwilling to provide for such participation on an equitable basis, the Commission shall waive such requirements and shall arrange for the provision of services to such children and teachers. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 1017 of the Elementary and Secondary Education Act of 1965.

§ 2501.16 Criteria for funding.

(a) In providing assistance under this part, the State Educational Agency, or the Commission if § 2501.1(b)(2) of this part applies, shall give priority for funds described in § 2501.9 (b) and (c) of this part to applications that describe programs that:

(1) Involve participants in the design and operation of the program;

(2) Are in the greatest need of assistance, such as programs targeting low-income areas;

(3) Involve students from both public and private elementary and secondary schools or individuals of different ages, races, sexes, ethnic groups, abilities and disabilities, and economic backgrounds serving together;

(4) Are integrated into the academic program;

(5) Involve a focus on substance abuse prevention or school dropout prevention;

(6) Best represent the potential of service-learning, including exploring the root-causes of community problems;

(7) Develop the leadership skills and qualities of participants; or

(8) Demonstrate the ability to achieve the goals of this chapter because of the program's quality, innovation, replicability, and sustainability.

(b) In providing assistance under this part, the State Educational Agency, or the Commission, if § 2501.2(b)(2) applies, shall give priority for funds described in § 2501.9(d) of this part to applications describing programs that:

(1) Involve older Americans or parents as adult volunteers;

(2) Involve a partnership between an educational institution and a private business in the community;

(3) Include a focus on substance abuse prevention, school dropout prevention, or nutrition;

(4) Will improve basic skills and reduce illiteracy; or

(5) Demonstrate the ability to achieve the goals of this chapter because of the program's quality, innovation, replicability, and sustainability.

(c) In providing assistance to States under this Part, if § 2501.7(b) applies, the Commission will consider:

(1)(i) The quality of the program, based on the program's ability to offer valuable services in the communities where they are needed most and where programs do not exist or where existing volunteer service programs are too limited to meet community needs; to provide productive, meaningful, educational experiences for participants which incorporate service-learning methods; to involve the participants in the design and operation of the program; to involve individuals from diverse backgrounds (including economically disadvantaged youth), who will serve together and explore the root-causes of community problems; to be integrated into the academic program; and to develop the leadership skills of participants;

(ii) The quality of leadership and management, as measured by the qualifications of the principal leaders of the program; and plans and processes for recruitment, training, supervision, participant support, evaluation, administration and other key activities;

(2) Innovative aspects of the program based on the:

(i) Ability of the program to advance knowledge about effective community service in ways that will be broadly applicable beyond the program location; and

(ii) Approach to evaluation and other means of learning from the experience of the program;

(3)(i) Replicability, based on the ability and willingness of the program to assist others in learning from the experience and replicating the approach of the program; and

(4) Sustainability, based on:

(i) Inclusion in a State Comprehensive Plan;

(ii) Strong and broad-based community support for and involvement in the program; and

(iii) Evidence that financial resources will be available to continue the program after the expiration of the grant.

PART 2502—HIGHER EDUCATION PROGRAM: INNOVATIVE PROJECTS FOR COMMUNITY SERVICE

Sec.
2502.1 General.
2502.2 Eligibility for grants.
2502.3 Types of grants.
2502.4 Application.
2502.5 Criteria for evaluating applications.
2502.6 Federal share.
2502.7 Reservation of funds.
2502.8 Term of grant.

Authority: 42 U.S.C. 12501 et seq.

§ 2502.1 General.

The purpose of this Part is to support innovative projects to encourage students to participate in community service activities.

§ 2502.2 Eligibility for grants.

The following are eligible for grants under this Part:

(a) Institutions of higher education;

(b) Consortia of institutions of higher education; and

(c) Public or private nonprofit agencies and organizations, including States, in consortia with institutions of higher education.

§ 2502.3 Types of grants.

The Commission may make grants under this Part for the following purposes:

(a) To enable institutions to create or expand community service activities for students attending that institution;

(b) To encourage student-initiated and student-designed community service projects;

(c) To facilitate the integration of community service into academic curricula, so that students can obtain credit for their community service;

(d) To encourage students to participate in community service activities that will engender a sense of social responsibility and commitment to the community;

(e) To encourage students to assist in the teaching of individuals with limited basic skills or an inability to read and write; and

(f) To provide for the training of teachers, prospective teachers, related education personnel, and community leaders in the skills necessary to develop, supervise, and organize community service activities, taking into consideration the particular needs of a community and the ability of the grantee to actively involve a major part of the community in, and substantially benefit the community by, the proposed community service activities.

§ 2502.4 Application.

(a) To receive a grant under this Part, an eligible applicant shall prepare and submit to the Commission an application that includes the following information:

(1) A description of the proposed program to be established with assistance provided under the grant;

(2) A description of the human, educational, environmental or public safety service that participants will perform and the community need that will be addressed under such program;

(3) A description of how participants have been involved in the design of the program and how participants will take leadership positions in implementing and evaluating the program;

(4) A description of whether or not students will receive academic credit for community service activities under the program and whether the program is integrated into the academic curriculum;

(5) A description of the procedure for training supervisors and participants and supervising and organizing participants in such proposed program;

(6) A description of the procedures to ensure that the proposed program provides participants with an opportunity to reflect on their service experiences;

(7) A description of the budget for the program and the amount of funds requested for each fiscal year during the period covered by the application;

(8) Assurances that in the program, prior to the placement of a participant, the applicant will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such project;

(9) The number of individuals currently involved in community service as participants in programs proposed to receive funds under this part (if applicable);

(10) The number of additional participants and nonparticipant volunteers expected to become involved in community service under the program;

(11) A description of how non-participant volunteers will assist the program;

(12) Whether or not the proposed program is part of a State Comprehensive Service Plan or endorsed by the State, even if the application for funding under this part is not being submitted by the State;

(13) A description of any local advisory committee that includes broad representation from the community; and

(14) Any additional information that the Commission may require.

§ 2502.5 Criteria for evaluating applications.

Applications for grants under this Part will be evaluated according to the following criteria:

(a)(1) The quality of the program, based on the program's ability to offer valuable services in the communities where they are needed most and where programs do not exist or where existing volunteer service programs are too limited to meet community needs; to provide productive, meaningful, educational experiences for participants that incorporate service-learning methods; to involve the participants in the design and operation of the program; to involve individuals from diverse backgrounds (including economically disadvantaged youth) who will serve together and explore the root-causes of community problems; to be integrated into the academic program; and to develop the leadership skills of participants;

(2) The quality of leadership and management, as measured by the qualifications of the principal leaders of the program and plans and processes for recruitment, training, supervision, participant support, evaluation, administration and other key activities;

(b) Innovation, based on the:

(1) Ability of the program to advance knowledge about effective community service in ways that will be broadly applicable beyond the program location; and

(2) Approach to evaluation and other means of learning from the experience of the program;

(c)(1) Replicability, based on the ability and willingness of the program to assist others in learning from the experience and replicating the approach of the program; and

(d) Sustainability, based on:

(1) Strong and broad-based community support for and involvement in the program;

(2) Campus-wide involvement, including faculty, staff, administration, and students; and

(3) Evidence that financial resources will be available to continue the program after the expiration of the grant.

§ 2502.6 Federal share.

(a) The Federal share of each grant awarded under this part shall not exceed 50 percent of the cost of the community service activities carried out with each such grant;

(b) The non-Federal share of each grant may be in cash (from non-Federal public or private funds) or in kind (fairly evaluated).

§ 2502.7 Reservation of funds.

Not more than five percent of funds awarded by the Commission may be used for administrative costs for any fiscal year.

§ 2502.8 Term of grant.

Grants may be for up to three years, subject to annual review and availability of appropriations.

PART 2503—AMERICAN CONSERVATION AND YOUTH SERVICE CORPS PROGRAMS

Sec.

Authority: 42 U.S.C. 12501 et seq.

§ 2503.1 Purpose.

The purpose of this program is to provide grants for the creation or expansion of full-time or summer youth service or conservation corps programs, including grants for the addition of participants, an increase in the number of hours or weeks during which the program operates, the involvement of an existing program in new types of service, or the improvement of an existing program consistent with this part.

§ 2503.2 Eligibility.

States, Indian Tribes, local governments, and public and private nonprofit organizations are eligible to receive awards under this program. In addition, the Commission may make awards to, or enter into other appropriate arrangements with, the Secretary of Agriculture, the Secretary of the Interior, or the Director of ACTION to carry out this program.

§ 2503.3 Allocation of funds.

(a) The Commission will make awards on a competitive basis to States and Indian Tribes using the selection criteria and amount of award determination procedures specified in §§ 2503.4 and 2503.5 respectively.

(1) If a State does not apply for a grant, the Commission may award grants directly to local governments and public or private nonprofit agencies with experience in youth programs within the State;

(2) Under these circumstances, if more than one local applicant in the State applies for funds, the Commission will allocate funds among the local applicants in the State in a manner determined by the Commission;

(3) An Indian Tribe is treated the same as a State for purposes of making grants under this part. The Commission shall reserve an amount not to exceed one percent of the amounts available in each fiscal year to make grants to Indian Tribes; and

(4) The Commission shall reserve an amount not to exceed five percent of the amounts made available in each fiscal year to make grants for youth corps involvement in Federal disaster relief programs.

§ 2503.4 Selection criteria.

(a) In selecting programs for funding, the Commission will give preference to programs that:

(1) Will provide long-term benefits to the public;

(2) Will instill a work ethic and a sense of public service in the participants;

(3) Will be labor intensive and involve youth operating in crews;

(4) Can be planned and initiated promptly; and

(5) Will enhance skills development, educational level and opportunities, and leadership skills and qualities of participants.

(b) The Commission will also take into consideration:

(1)(i) The quality of the program, based on the program's ability to offer valuable services in the communities where they are needed most and where programs do not exist or where existing volunteer service programs are too limited to meet community needs; to provide productive, meaningful, educational experiences for participants that incorporate service-learning methods; to involve the participants in the design and operation of the program; to involve individuals from diverse backgrounds (including economically disadvantaged youth), who will serve together and explore the root-causes of community problems;

(ii) The quality of leadership and management, as measured by the qualifications of the principal leaders of the program, and the program's plans and processes for recruitment, training, supervision, participant support, evaluation, administration and other key activities;

(2) Innovative aspects of the program, based on the:

(i) Ability of the program to advance knowledge about effective community service in ways that will be broadly applicable beyond the program location; and

(ii) Approach to evaluation and other means of learning from the experience of the program;

(3)(i) Replicability, based on the ability and willingness of the program to assist others in learning from the experience and replicating the approach of the program; and

(4) Sustainability, based on:

(i) Inclusion in a State Comprehensive Plan;

(ii) Strong and broad-based community support for and involvement in the program; and

(5) Evidence that financial resources will be available to continue the program after the expiration of the grant.

(c) In addition, the Commission shall:

(1) Ensure the equitable treatment of both urban and rural areas; and

(2) Fund an equal number of service and conservation corps programs. A corps program performing both conservation and service corps activities shall be considered one conservation corps and one service corps.

(d) Further, in reviewing applications that propose to carry out activities on Federal public lands or Indian lands, the Commission shall consult with the Department of the Interior.

§ 2503.5 Amount of awards.

The Commission, in determining the amount of a grant to be awarded under this program, shall consider:

(a) The additional number of participants to be served;

(b) The youth unemployment rate, as measured by the U.S. Department of Labor, in the State;

(c) The type of activity proposed to be carried out; and

(d) Other criteria as may be determined by the Commission.

§ 2503.6 General content of the State application.

(a) All applications submitted to the Commission by the States, under this process, shall include:

(1) A description of any youth corps program the State proposes to operate directly;

(2) A description of any grant program the State proposes to conduct;

(3) The number of individuals currently involved in community service as participants in programs proposed to receive funds under this part (if known);

(4) The number of additional participants and non-participant volunteers expected to become involved in community service under the program (if known);

(5) A description of how non-participant volunteers will assist the program;

(6) The amount of funds required for each fiscal year during the period covered by the application;

(7) A budget of expenditures;

(8) An assurance that the State will comply with the requirements of this chapter;

(9) An assurance that the State will ensure compliance with the Drug-Free Workplace Requirements for Federal Grant Recipients under sections 5153 through 5158 of the Anti-Drug Abuse Act of 1988 (41 U.S.C. 702–707); and

(10) Such other information as specified by the Commission.

(b) A State may operate a program directly with funds provided under this part only if it also uses a reasonable portion of such funds to establish and implement a program to make grants to State and local applicants within the State consistent with the requirements of § 2503.8.

§ 2503.7 Specific content of the State application to operate a program directly.

Each application submitted by a State to operate a youth corps program directly shall include:

(a) A comprehensive description of the objectives and performance goals for the program to be conducted, a plan for managing and funding the program, and a description of the types and duration of training and work experience to be provided by such program;

(b) A plan that will lead to the certification of the training skills acquired by participants as determined by the State and the awarding of academic credit to participants for competencies developed through training programs or work experience;

(c) An age-appropriate learning component for participants that includes procedures that permit participants to reflect on their service experience;

(d) An estimate of the number of participants and crew leaders necessary for the proposed program, the length of time that the services of such participants and crew leaders will be required, the support services needed for participants and crew leaders, and a plan for recruiting participants, including educationally and economically disadvantaged youth, youth with limited basic skills or learning disabilities, youth with disabilities, homeless youth, youth who are in foster care who are becoming too old for foster care, and youth of limited English proficiency;

(e) A list of requirements to be imposed on the sponsoring organizations, such as giving preference to a sponsoring organization that invests in a program receiving assistance under this part (cash contribution or free training to participants), over a sponsoring organization that does not make such an investment;

(f) A description of the manner of appointment and training of sufficient supervisory staff (including participants who have displayed exceptional leadership qualities), to provide for other central elements of a youth corps, such as crew structure and a youth development component;

(g) A description of a plan to ensure the on-site presence of knowledgeable and competent supervisory personnel at program facilities;

(h) A description of the facilities, quarters and board (in the case of residential facilities), limited and emergency medical care, transportation from administrative facilities to work sites, accommodations for individuals with disabilities, and other appropriate services, supplies, and equipment that will be provided by such applicant;

(i) A description of the basic standards of work requirements, health, nutrition, sanitation, and safety, and the manner that such standards shall be enforced;

(j) A description of a plan to assign participants to facilities as near to the homes of such participants as is reasonable and practicable;

(k) An assurance that, prior to the placement of a participant, the program agency will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program;

(l) A description of formal social counseling arrangements to be made available to the participant;

(m) A strategy for ensuring that individuals do not drop out of school for the purpose of participating in a youth corps program;

(n) A plan for ensuring that post-service education and training benefits are used solely for the purposes designated in this part;

(o) A description of any local advisory committee that includes youth and a broad representation from the community; and

(p) Such other information as the Commission may require.

§ 2503.8 Specific content of the State application to conduct a grant program.

Each application submitted by a State to conduct a grant program for the benefit of entities within a State shall include a description of the manner in which:

(a) The State will determine which local applicants receive funding;

(b) Service programs within the State will be coordinated;

(c) Economically and educationally disadvantaged youth, including youth with disabilities, youth with limited basic skills or learning disabilities, youth with limited English proficiency, homeless youth, youth with disabilities, and youth in foster care who are becoming too old for foster care, will be recruited;

(d) Projects that receive assistance will be evaluated concerning performance;

(e) The State will encourage cooperation among programs that receive assistance under this part and the appropriate State job training coordinating council established under the Job Training Partnership Act (29 U.S.C. 1501 et. seq.);

(f) Such State will develop a plan for the certification of the training skills acquired by each participant and the awarding of credit to each participant for competencies developed through training programs or work experience obtained under programs that receive assistance under this part;

(g) Prior to the placement of a participant under this part, the State will ensure that program agencies consult with each local labor organization representing employees in the area who are engaged in the same or similar work that is proposed to be carried out by such program; and

(h) Programs will be evaluated for effectiveness in achieving program objectives.

Local Application Process

§ 2503.9 Procedures governing applications to a State to operate a program.

When the State receives an award from the Commission to conduct a grant program, the State will define the contents and procedures to be followed when local applicants apply to the State to operate a project through a grant from the State. In defining the contents of the application and the procedures to be followed, the State must assure that all applicable requirements contained in these regulations are being met, and shall minimize paperwork required of local applicants. The State is not required to issue a formal request for proposals, but should solicit applications from a broad-based group of public and private nonprofit eligible organizations.

§ 2503.10 Procedures for submitting applications to the Commission.

The Commission may consider applications from eligible local applicants located in a State that does not apply for a grant.

§ 2503.11 Contents of a local application submitted directly to the Commission.

In those situations where a State does not apply for a grant from the Commission, and a local applicant chooses to apply directly to the Commission, the contents of the application from a local applicant shall be the same as those specified in § 2503.7.

§ 2503.12 Term of grant.

(a) Grants to States and Indian Tribes shall be for a term of not more than three years.

(b) Grants made by the Commission directly to local applicants shall be for a term of not more than one year.

Allowable Program Activities

§ 2503.13 Conservation Corps activities.

Projects that receive assistance for conservation corps activities may carry out activities that focus on:

(a) Conservation, rehabilitation, and the improvement of wildlife habitat, rangelands, parks, and recreational areas;

(b) Urban and rural revitalization, historical and cultural site preservation, and reforestation of both urban and rural areas;

(c) Fish culture, wildlife habitat maintenance and improvement, and other fishery assistance;

(d) Road and trail maintenance and improvement;

(e) Erosion, flood, drought, and storm damage assistance and controls;

(f) Stream, lake, waterfront harbor, and port improvement;

(g) Wetlands protection and pollution control;

(h) Insect, disease, rodent, and fire prevention and control;

(i) The improvement of abandoned railroad beds and rights-of-way;

(j) Energy conservation projects, renewable resource enhancement, and recovery of biomass;

(k) Reclamation and improvement of strip-mined land;

(l) Forestry, nursery, and cultural operations;

(m) Making public facilities accessible to individuals with disabilities; and

(n) Housing rehabilitation, renovation, construction, and repair for the purpose of providing affordable housing for low-income and homeless individuals.

§ 2503.14 Youth service corps activities.

Projects that receive assistance for youth service corps activities may carry out activities that include participant service in the following:

(a) State, local, and regional governmental agencies;

(b) Nursing homes, hospices, senior centers, hospitals, local libraries, parks, recreational facilities, child and adult day care centers, programs serving individuals with disabilities, and schools;

(c) Law enforcement agencies, and penal and prohibition systems;

(d) Private nonprofit organizations that primarily focus on social service, such as community action agencies;

(e) Activities that focus on the rehabilitation or improvement of public facilities and neighborhood improvements;

(f) Literacy training that benefits educationally disadvantaged individuals;

(g) Weatherization of, rehabilitation of, construction of, and basic repairs to low-income housing, including housing occupied by older adults, day care, senior citizens, and recreational center facilities, and other community facilities;

(h) Energy conservation (including solar energy techniques);

(i) Removal of architectural barriers to access by individuals with disabilities to public facilities;

(j) Activities that focus on drug and alcohol abuse education, prevention and treatment;

(k) Conservation, maintenance, or restoration of natural resources on publicly held lands; and

(l) Other nonpartisan civic activities and services that are of a substantial social benefit in meeting unmet human, educational, public safety or environmental needs (particularly related to poverty) in the community.

§ 2503.15 Combined eligible activities.

Projects may also carry out activities that encompass the focuses and service described in §§ 2503.13 and 2503.14.

§ 2503.16 Ineligible service categories.

The eligible activities described in §§ 2503.13, 2503.14, and 2503.15 shall not be conducted by any:

(a) Business organized for profit;

(b) Labor union;

(c) Partisan political organization;

(d) Organization engaged in religious activities, unless such activities do not involve the use of funds provided under this part by program participants and program staff to give religious instruction, conduct worship services, or engage in any form of proselytization; or

(e) Domestic or personal service company or organization.

Administrative and Other Program Requirements

§ 2503.17 Administrative and other expenses.

(a) States may not use more than five percent of the amounts made available for administrative costs.

(b) In addition, a program agency may not:

(1) Use more than five percent of the amount of assistance for administrative costs;

(2) Use more than ten percent of funds for the purchase of major capital equipment;

(3) Use less than ten percent of funds for pre-service and in-service training and educational materials and services for participants; or

(4) Use more than two percent of funds for joint projects with senior citizens organizations.

§ 2503.18 Public lands or Indian lands.

To be eligible to receive assistance, a program must carry out activities on public lands or Indian lands, or result in a public benefit. A program carried out with assistance for conservation, rehabilitation, or improvement of any public lands or Indian lands shall be consistent with:

(a) The provisions of law and policies relating to the management and administration of such lands, and all other applicable provisions of law;

(b) All management, operational, and other plans and documents that govern the administration of such lands; and

(c) Any land or water conservation program (or any related program) administered in any State under the authority of any Federal program is encouraged to use services available under this part to carry out its program.

§ 2503.19 Training and education services.

(a) Assessment of Skills: Each program agency shall assess the educational level of participants at the time of their entrance into the program, using any available records or simplified assessment means or methodology and shall, where appropriate, refer such participants for testing for specific learning disabilities.

(b) Enhancement of Skills: Each program agency shall, through the programs and activities administered under this part, enhance the educational skills of participants.

(c) Provision of Pre-Service and In-Service Training and Education: (1) Program participants shall be provided with information concerning the benefits to the community that result from the activities undertaken by such participants.

(2) A program agency may enter into arrangements with academic institutions or education providers to evaluate the basic skills of participants and to make academic study available to participants to enable such participants to upgrade literacy skills, to obtain high school diplomas or the equivalent of such diplomas, to obtain college degrees, or to enhance employable skills. Such academic institutions or education providers may include:

(i) Local education agencies;

(ii) Community colleges;

(iii) 4-year colleges;

(iv) Area vocational-technical schools; and

(v) Community-based organizations.

(3) Career and education guidance and counseling shall be provided to a participant during a period of the in-service training as described in this part. Each graduating participant shall be provided with counseling with respect to additional study, job skills training or employment and shall be provided job placement assistance where appropriate; and

(4) A program agency shall give priority to participants who have not obtained a high school diploma or the equivalent of such diploma, in providing services under this Section.

(d) Standards and Procedures. Appropriate State and local officials shall certify that standards and procedures with respect to the awarding of academic credit and the certification of educational attainment in programs conducted under paragraph (c) of this section are consistent with the requirements of applicable State and local laws and regulations. These standards and procedures shall provide that participants:

(1) Will participate in a program that will prepare them to earn a high school diploma or the equivalent (non-high school graduates);

(2) May arrange to receive academic credit in recognition of the education and skills obtained from service satisfactorily completed; and

(3) Will use service-learning methods whenever practicable.

§ 2503.20 Matching requirement.

(a) The Federal share of each grant awarded under this part shall not exceed 75 percent of the cost of the community service activities carried out with each such grant.

(b) The non-Federal share may be in cash (from non-Federal public or private funds) or in-kind.

§ 2503.21 Age, citizenship, and other criteria for enrollment.

(a) Age and Citizenship. (1) Except as provided in paragraph (c) of this section, enrollment in projects that receive assistance under this program shall be limited to individuals who, at the time of enrollment, are:

(i) Not less than 16 years nor more than 25 years of age, except that summer programs may include individuals not less than 15 years of age nor more than 21 years of age at the time of the enrollment of such individuals; and

(ii) Citizens or nationals of the United States or lawful permanent resident aliens of the United States.

(2) A program agency may limit enrollment to any age group within the range specified above.

(b) Participation of Disadvantaged Youth. Programs that receive assistance shall ensure that educationally and economically disadvantaged youth, including youth in foster care who are becoming too old for foster care, youth with disabilities, youth with limited English proficiency, youth with limited basic skills or learning disabilities, and homeless youth, are offered opportunities to enroll.

(c) Special Corps Members. Program agencies may enroll a limited number of special corps members over age 25 so that the corps may draw on their special skills to fulfill the purposes of this Chapter. Projects are encouraged to consider senior citizens as special corps members.

§ 2503.22 Joint projects with senior citizens' organizations.

Program agencies shall use not more than 2 percent of amounts received to conduct joint projects with senior citizens' organizations to enable senior citizens to serve as mentors for youth participants.

§ 2503.23 Use of volunteers.

Program agencies may use volunteer services for purposes of assisting projects and may expend funds made available to provide for services or costs incidental to the utilization of such volunteers, including transportation, supplies, lodging, recruiting, training, and supervision. The use of volunteer services may not result in the displacement of any participant.

§ 2503.24 Post-service benefits.

Program agencies shall provide post-service education and training benefits (such as scholarships and grants) for each participant in an amount that is not in excess of $100 per week, or in excess of $5,000 per year, whichever is less.

§ 2503.25 Living allowance and other benefits.

(a) Full-time service allowance. (1) Each participant in a full-time youth corps program that receives assistance under this Part shall receive a living allowance of not more than 100 percent of the poverty line for a family of two. Program agencies have the flexibility to establish the amount of living allowance in accordance with this part.

(2) Notwithstanding this paragraph, a program agency may provide participants with additional amounts for living expenses that are made available from non-Federal sources.

(b) Adjustment to allowance. A program agency may deduct, from the amounts required to be provided to a participant, a reasonable portion of the costs of the rates for any room and board that is provided for such participant at a residential facility. Such deducted funds shall be deposited into rollover accounts that shall be used solely to defray the costs of room and board for participants. In addition, the program agency shall establish the amount of the deductions and rates for any room and board after evaluating the costs of providing these services to the participant.

(c) Allowance for quarters. For purposes of section 5911 of title 5, United States Code, relating to allowances for quarters, a participant or crew leader shall be considered an employee of the United States within the meaning of the term "employee" as defined in paragraph (a)(3) of that section.

(d) No requirement for a reduction in existing benefits. A program in

existence as of November 16, 1990, is not required to decrease any stipends, salaries, or living allowances provided to participants in such program as a result of any of the above requirements, so long as the amount of any such stipends, salaries, or living allowances that is in excess of the levels specified above are paid from non-Federal sources.

(e) Health insurance. In addition to a living allowance, program agencies are encouraged to provide health insurance to each participant in a full-time youth corps program who does not otherwise have access to health insurance.

§ 2503.26 Miscellaneous duties and authorities of program agencies.

(a) *Responsibilities to participant.* A program agency may provide facilities, quarters, and board and shall provide limited and emergency medical care, transportation from administrative facilities to work sites, accommodations for individuals with disabilities, child care and other supportive services, and other appropriate services, supplies, and equipment to each participant.

(b) *Operation of maintenance agreements.* Program agencies may enter into contracts and other appropriate arrangements with local government agencies and nonprofit organizations for the operation or management of any projects or facilities under the program.

(c) *Coordination.* Program agencies shall coordinate their projects with related Federal, State, local, and private activities.

(d) *Limitation on placement.* No participant shall perform any specific activity for more than a six-month period. No participant shall remain enrolled in programs assisted under this part for more than 24 months.

§ 2503.27 Health and safety standards.

(a) Program agencies shall establish and meet standards and enforcement procedures concerning the health and safety of participants for all projects, consistent with Federal, State, and local health and safety standards.

(b) Due to the wide variety of eligible activities and locations in which these activities may be performed, the Commission will not set separate standards for these programs. The Commission requires that program agencies meet the existing Federal, State, and local health and safety standards that would otherwise be applicable to the particular location of the project and the activity being performed if the activity were performed by regular employees of the program.

§ 2503.28 Federal and State employee status.

(a) *General Responsibility.* Participants and crew leaders shall be responsible to, or be a responsibility of, the program agency administering the program on which such participants, crew leaders, and volunteers work.

(b) *General Treatment as a Non-Federal Employee.* Except as otherwise provided under paragraphs (c) and (d) of this Section, a participant or crew leader in a program that receives assistance shall not be considered a Federal employee and shall not be subject to the provisions of law relating to Federal employment.

(c) *Work-Related Injury.* A participant or crew leader serving in a program that receives assistance shall be considered an employee of the United States, within the meaning of the term *employee* as defined in section 8101 of title 5, United States Code, for the purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries. The provision of that subchapter shall apply, except:

(1) The term *performance of duty*, as used in such subchapter, shall not include an act of a participant or crew leader while absent from the assigned post of duty of such participant or crew leader, except while participating in an activity authorized by or under the direction and supervision of a program agency, (including an activity while on pass or during travel to or from such post of duty);

(2) Compensation for disability shall not begin to accrue until the day following the date that the employment of the injured participant or crew leader is terminated; and

(3) In computing compensation benefits for disability or death, the annual rate of pay of a full-time participant shall be deemed to be such entry salary for a grade GS–5 employee, and the annual rate of pay of a participant enrolled for a period of summer service shall be deemed to be 25 percent of such entry salary.

(d) *Tort Claims Procedure.* For purposes of chapter 171 of title 28, United States Code, relating to tort claims procedure, a participant or crew leader assigned to a youth corps program for which a grant has been made to, or other appropriate arrangement entered into with, the Secretary of Agriculture, Secretary of the Interior, or the Director of ACTION, shall be considered an employee of the United States within the meaning of the term "employee of the government" as defined in 28 U.S.C. 2671.

PART 2504—NATIONAL AND COMMUNITY SERVICE PROGRAMS

Sec.

Authority: 42 U.S.C. 12501 et seq.

§ 2504.1 General.

The Commission will make grants for the creation of full- and part-time national and community service programs.

§ 2504.2 Eligibility to receive grants.

States and Indian Tribes are eligible to receive grants under this part. For the purposes of this part, the definition of State includes Indian Tribes.

§ 2504.3 Eligibility to participate in a program funded under this part.

(a) Part-Time: (1) An individual may serve in a part-time national service program under this part if the individual:

(i) Is 17 years of age or older; and

(ii) Is a citizen of the United States or lawfully admitted for permanent residence.

(2) In selecting applicants for a part-time program, States must give priority to applicants who are currently employed.

(b) An individual may serve in a full-time national service program under this part if the individual:

(1) Is 17 years of age or older;

(2) Has received a high school diploma or the equivalent of such diploma, or agrees to achieve a high school diploma or the equivalent of such while participating in the program; and

(3) Is a citizen of the United States or lawfully admitted for permanent residence.

(c) An individual may serve as a special senior service participant under this part if the individual:

(1) Is 60 years of age or older; and

(2) Meets any additional eligibility criteria for special senior service participation established by the Commission.

§ 2504.4 State application.

(a) An application for funds under this part made by a State, must contain:

(1) The amount of funds requested for each fiscal year during the period covered by the State proposal;

(2) An assurance that the State will comply with the requirements of this Chapter and this part;

(3) A budget of estimated expenditures;

(4) The amount of Federal, State, and local public funds expended for services of the type assisted under this Chapter in the previous fiscal year;

(5) The State proposal, as required by § 2504.6 of this part;

(6) The number of individuals currently involved in community service part-time or full-time as participants in programs proposed to receive funds under this part (if applicable);

(7) The number of additional part-time, full-time, and special senior service participants and non-participant volunteers expected to become involved in community service under the program;

(8) Describe how non-participant volunteers will assist the program; and

(9) Such other information as specified by the Commission.

(b) Applications must be submitted annually at such time and in such manner as prescribed by the Commission.

§ 2504.5 Assurances.

The State proposal must include assurances that:

(a) The State will keep such records and provide such information to the Commission as may be required for fiscal audits and program evaluation;

(b) The State will ensure that the uses of post-service benefits described in § 2504.10 of this part are limited to the uses specified in § 2504.11 of this part;

(c) Prior to the placement of a participant, the State will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program;

(d) Prior to the placement of a participant, the State will consult with employees at the proposed project site who are engaged in the same or similar work as that proposed to be carried out by such program;

(e) The State will ensure that any entity carrying out program functions pursuant to grant or contract will comply with the provisions of this chapter and part;

(f) The State will provide to each participant enrolled in a full-time program in-service educational services and materials to enable such participant to obtain a high school diploma or the equivalent of such diploma;

(g) The State will cooperate in arranging and conducting the three-week training provided to participants by the Commission; and

(h) The State will comply with the requirements of the Drug-Free Workplace Requirements for Federal Grant Recipients under section 5153 through 5158 of the Anti-Drug Abuse Act of 1988 (41 U.S.C. 401–707).

§ 2504.6 State proposal.

The State proposal must include the following information:

(a) A description of the State administrative plan for the implementation of a program with assistance provided under this part, including such functions, if any, that will be carried out by public or private nonprofit organizations pursuant to a grant or contract;

(b) A description of the manner in which an ethnically and economically diverse group of participants, including economically and educationally disadvantaged individuals, college-bound youth, individuals with disabilities, youth in foster care who are becoming too old for foster care, and employed individuals, shall be recruited and selected for participation in a program receiving assistance under this part;

(c) Whether the program will enroll individuals who have completed undergraduate education or specialized post-secondary training and whose training and skills enable them to provide needed services in the State;

(d) A description of the procedures for training supervisors and participants in skills relevant to the work to be conducted and for supervising and organizing participants in such program;

(e) A description of the procedures to ensure that the program provides participants with an opportunity to reflect on their service experience;

(f) A plan for providing full-time participants with educational services required in § 2504.5(f) of this part;

(g) A description of the geographical areas within the State in which the program would be operated to provide the optimum match between the need for services and the anticipated supply of participants;

(h) A description of the plan for placing the participants in teams or making individual placements in the programs;

(i) A description of the anticipated number of full- and part-time participants and special senior service members in such program;

(j) A plan for the recruitment and selection of sponsoring organizations that will receive participants under the programs that receive assistance under this part;

(k) A description of the procedures for matching the participants with the sponsoring organizations;

(l) A description of the procedures to be used to assure that sponsoring organizations that are not matched with participants shall be provided with information concerning the VISTA program and the Older American Volunteer Programs;

(m) The budget for the program, including anticipated public and private funding;

(n) A plan for evaluating the program and assurances that the State will fully cooperate with any evaluation undertaken by the Commission;

(o) The assurances required in § 2504.5 of this part; and

(p) Any other information required by the Commission.

§ 2504.7 Reservation of funds.

Not more than five percent of funds received under this part shall be used for administrative costs for any fiscal year.

§ 2504.8 Types of service.

A participant in a program that receives assistance under this part shall perform national service to meet unmet educational, human, environmental, and public safety needs, especially those needs relating to poverty.

§ 2504.9 Terms of service.

(a)(1) An individual performing part-time national service under this part shall agree to perform community service as a participant in the program for not less than 3 years unless the individual is unable to complete the term of service for reasons provided in paragraph (b) of this section.

(2) An individual performing full-time national service under this part shall agree to perform community service as a participant in the program for not less than 1 year nor more than 2 years, at the discretion of such individual, unless the individual is unable to complete the term of service for reasons provided in paragraph (b) of this section.

(3) A special senior service participant performing national service under this part shall serve for any period of time as determined by the State.

(b) If the State releases a participant from completing a term of service in a program receiving assistance under this part for compelling personal circumstances as demonstrated by the participant, or if the program in which the participant serves does not receive continual funding for any reason, the

State may provide such participant with that portion of the financial assistance described in paragraph (a) of this section that corresponds to the quantity of the service obligation completed by such individual.

(c)(1) A participant performing part-time national service under this part shall serve for:

(i) 2 weekends each month and 2 weeks during the year; or

(ii) An average of 9 hours per week each year in increments determined by the State;

(2) A participant performing full-time national service under this part shall participate in activities of the program for not less than 40 hours per week each year of service, including such holidays and vacation periods as designated by the program.

(3) A special senior service participant performing national service under this part shall serve either part- or full-time as permitted by the State.

§ 2504.10 Value of post-service benefits.

(a)(1) The Commission, through the State, will annually provide to each part-time participant a non-transferrable post-service benefit equal in value to $1,000 for each year of service that such participant provides to the program. Funds for this benefit shall be included in the budget for the program and reflected in the grant request.

(2)(i) The State shall annually provide to each part-time participant from non-Federal public or private funds a nontransferrable post-service benefit that is equal in value to $1,000 for each year of service that such participant provides to the program.

(ii) A State may apply for a waiver to reduce the amount of the post-service benefit to an amount that is equal to not less than the average annual tuition and required fees at four year public institutions of higher education within such State. Such waivers will be granted if the Commission determines that such waiver would be equitable due to lack of resources in the State.

(b)(1) The Commission, through the State, shall annually provide to each full-time participant a non-transferrable post-service benefit that is equal in value to $2,500 for each year of service that such participant provides to the program. Funds for this benefit shall be included in the budget for the program and reflected in the grant request.

(2)(i) The State shall annually provide from non-Federal public or private funds to each full-time participant a nontransferrable post-service benefit that is equal in value to $2,500 for each year of service that such participant provides to the program.

(ii) A State may apply for a waiver to reduce the amount of the post-service benefit to an amount that is equal to not less than the average annual tuition, required fees, and room and board costs at four year public institutions of higher education within such State. Such waiver will be granted if the Commission determines that such waiver would be equitable due to a lack of resources in the State.

(c) Nothing in this part shall be construed to prevent a State from using funds made available from non-Federal sources to increase the amount of post-service benefits to an amount in excess of that described in this part.

(d) A special senior service participant shall be ineligible to receive post-service benefits under this part.

(e) The Commission will increase the value of post-service benefits provided under this part in each fiscal year based on the increase in the costs associated with attending a four year institution of higher education during that fiscal year. The Commission will determine such increases in costs based on information made available by the Bureau of Labor Statistics and the National Center for Education Statistics.

§ 2504.11 Uses of post-service benefits.

(a) A post-service benefit for a part-time participant provided under § 2504.10(a) of this part shall only be used for:

(1) Payment of a student loan from Federal or non-Federal sources;

(2) Down-payment or closing costs associated with purchasing a first home; or

(3) Tuition at an institution of higher education on a fulltime basis, or to pay the expenses incurred in the full-time participation in an apprenticeship program approved by the appropriate State agency.

(b) A post-service benefit for a full-time participant provided under § 2504.10(b) of this part shall only be used for:

(1) Payment of a student loan from Federal or non-Federal sources; or

(2) Tuition, room and board, books and fees, and other costs associated with attendance (pursuant to section 472 of the Higher Education Act of 1965 (20 U.S.C. 108711)) at an institution of higher education on a full-time basis, or to pay the expenses incurred in the full-time participation in an apprenticeship program approved by the appropriate State agency.

§ 2504.12 Living allowance.

(a)(1) Each participant in a full-time program that receives assistance under this part shall receive a living allowance of not more than 100 percent of the poverty line for a family of two. Program agencies have the flexibility to establish the amount of living allowance in accordance with this part.

(2) Notwithstanding paragraph (a)(1) of this section, a program agency may provide participants with additional amounts that are made available from non-Federal sources.

(b) Nothing in this section shall be construed to require a program in existence on November 16, 1990, to decrease any stipends, salaries, or living allowances provided to participants under such program.

(c) In addition to the living allowances provided under paragraph (a) of this section, grantees are encouraged to provide health insurance to each participant in a full-time national service program who does not otherwise have access to health insurance.

(d)(1) Each full-time special senior service participant shall receive a living allowance equal to the living allowance provided to full-time participants under paragraph (a) of this Section and such other assistance as the Commission considers necessary and appropriate for a special senior service participant to carry out the service obligation of such participant.

(2) Each part-time special senior service participant shall receive a living allowance equal to a share of such allowance offered to a full-time special senior service participant under paragraph (d)(1) of this section, that has been prorated according to the number of hours such part-time participant serves in the program, and such other assistance as the Commission considers necessary and appropriate for a special senior service participant to carry out the service obligation of such participant.

§ 2504.13 Criteria for evaluating applications.

(a) In determining whether to award a grant, the Commission will consider:

(1) The ability of the proposed program to serve as an effective model for a large-scale national service program;

(2) The quality of the application, including the plan for training, recruitment, placement, and data collection;

(3) The extent that the program builds on existing programs; and

(4) The expedience with which the State proposes to make the program operational.

(b) The Commission will also consider:

(1)(i) The quality of the program, based on the program's ability to offer valuable services in the communities where they are needed most and where programs do not exist or where existing volunteer service programs are too limited to meet community needs; to provide productive, meaningful, educational experiences for participants that incorporate service-learning methods; to involve the participants in the design and operation of the program; to involve individuals from diverse backgrounds (including economically disadvantaged youth) who will serve together and explore the root-causes of community problems; and to prepare the participants for future volunteer service leadership.

(ii) The quality of leadership and management, as measured by the qualifications of the principal leaders of the program and plans and processes for recruitment, training, supervision, participant support, evaluation, administration and other key activities.

(2) Innovative aspects of the program, based on the:

(i) Ability of the program to advance knowledge about effective community service in ways that will be broadly applicable beyond the program location; and

(ii) Approach to evaluation and other means of learning from the experience of the program;

(3)(i) Replicability, based on the ability and willingness of the program to assist others in learning from the experience and replicating the approach of the program; and

(4) Sustainability, based on:

(i) Inclusion in a State Comprehensive Plan;

(ii) Significant bipartisan, nonpartisan, or other broad-based support for and involvement in the program; and

(iii) Evidence that financial resources will be available to continue the program after the expiration of the grant.

(c) In addition, the Commission shall ensure that programs receiving assistance under this part are geographically diverse and include programs in both urban and rural areas.

§ 2504.14 Program training.

(a) Each participant shall receive three weeks of training provided by the Commission in cooperation with the State.

(b) Each training session described above will:

(1) Orient each participant in the nature, philosophy, and purpose of the program; and

(2) Build an ethic of community service, and the assigned program task of each participant by providing:

(i) General training in citizenship and civic and community service; and

(ii) If feasible, specialized training for the type of service that each participant will perform.

(c) The State may provide additional training as the State determines necessary.

(d) Each sponsoring agency will also train participants in skills relevant to the work to be conducted.

PART 2505—INNOVATIVE AND DEMONSTRATION PROGRAMS

Subpart A—General

Sec.
2505.1 Limitation on grants.

Subpart B—Governors, Innovative Service Programs

2505.10 Purpose.
2505.11 Projects to be funded.
2505.12 Application contents.
2505.13 Selection criteria.

Subpart C—Peace Corps and VISTA Training Programs

2505.20 Purpose.
2505.21 Eligibility.

Subpart D—Rural Youth Service Demonstration Project

2505.30 Purpose.
2505.31 Designation of rural areas.
2505.32 Eligibility.
2505.33 Projects to be funded.
2505.34 Allowable uses of funds.
2505.35 Selection criteria.

Subpart E—Assistance for Head Start

2505.40 Purpose.
2505.41 Eligibility.
2505.42 Applicable requirements.
2505.43 Relationship with ACTION.
2505.44 Selection Criteria.

Subpart F—Employer-based Retiree Volunteer Programs

2505.50 Purpose.
2505.51 Eligibility.
2505.52 Projects to be funded.
2504.53 Selection criteria.

Authority: 42 U.S.C. 12501 et seq.

Subpart A—General

§ 2505.1 Limitation on grants.

Given the availability of funds, the Commission shall make grants for no fewer than three programs, as specified in subparts under this part.

Subpart B—Governors, Innovative Service Programs

§ 2505.10 Purpose.

This program is to support the creation of innovative volunteer and community service programs by providing assistance for certain service and demonstration activities as well as support functions such as training, technical assistance, and evaluation.

§ 2505.11 Projects to be funded.

The Commission may provide assistance through a general grant to States to support one or more of the following activities:

(a) Enhancements to existing volunteer and community service programs;

(b) Demonstration programs;

(c) Research concerning, and evaluation of, service programs;

(d) Coordination of service programs;

(e) Technical assistance;

(f) Training and staff development; and

(g) Collection and dissemination of information concerning service programs.

§ 2505.12 Application contents.

Applications proposing to perform activities under this subpart must contain:

(a) A description of the proposed program;

(b) A description of the human, educational, environmental or public safety service that participants will perform and the State or community need that will be addressed;

(c) A description of the target population of participants and how they will be recruited;

(d) A description of the procedures for training supervisors and participants and for supervising and organizing participants;

(e) A description of the procedures to ensure that the proposed program provides participants with an opportunity to reflect on their service experiences;

(f) An assurance that, prior to the placement of a participant in the program, the applicant will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by the program;

(g) The number of individuals currently involved in community service as participants in programs proposed to receive funds under this part (if applicable);

(h) The number of additional participants and non-participant volunteers expected to become involved in community service under the program;

(i) A description of how non-participant volunteers will assist the program;

(j) An assurance that, prior to the placement of a participant in the program, the applicant will consult with employees at the proposed program site who are engaged in the same or similar work as that proposed to be carried out by the program;

(k) A description of the budget of the program;

(l) The amount of funds requested for each fiscal year during the period covered by the application;

(m) An assurance that the State will comply with requirements of this chapter and this part;

(n) An assurance that the State will ensure compliance with the Drug-Free Workplace Requirements for Federal Grant Recipients under sections 5153 through 5158 of the Anti-Drug Abuse Act of 1988 (41 U.S.C. 702–707); and

(o) Such other information as specified by the Commission.

§ 2505.13 Selection criteria.

The Commission makes awards under this program on the basis of the criteria specified below. The Commission determines the following in evaluating applications:

(a) Ability of the proposed program to serve as an effective model, including demonstrating the effectiveness of results;

(b) Quality of the plan of operation and staffing, including the quality of the management plan, adequacy of the proposed budget in relation to objectives, evaluation plan, and qualifications and capability of any staff assigned to the project;

(c) Extent to which the proposed program builds on existing programs, including both expanding services and improving their quality;

(d) The demonstrated innovation of the program in responding to one or more of the following needs: human, educational, environmental, and public safety;

(e) The demonstrated ability to achieve the goals of this Chapter; and

(f) Inclusion in a State Comprehensive Service Plan.

Subpart C—Peace Corps and VISTA Training Programs

§ 2505.20 Purpose.

The purpose of this demonstration program is to provide certain training and education benefits for potential VISTA and Peace Corps volunteers.

§ 2505.21 Eligibility.

The Commission may make grants to, or enter into other appropriate arrangements with, the Director of the Peace Corps and/or the Director of ACTION to carry out this program. The Director of the Peace Corps and/or the Director of ACTION are responsible, either directly or by way of grant, contract, or other arrangement, to carry out the provisions specified in sections 161, 162, and 163 of the Act. Any regulation determined necessary to govern the implementation of these provisions will be issued by the Director of ACTION and/or the Director of the Peace Corps.

Subpart D—Rural Youth Service Demonstration Project

§ 2505.30 Purpose.

The purpose of this program is to support demonstration projects in rural areas involving youth volunteers.

§ 2505.31 Designation of rural areas.

For the purposes of this subpart, a rural area is:

(a) Open country which is not part of or associated with an urban area;

(b) Any town, village, city or place, including the immediately adjacent densely settled area, which is not part of or associated with an urban area and which:

(1) Has a population not in excess of 10,000 if it is rural in character; or

(2) Has a population in excess of 10,000 but not in excess of 20,000 and is not contained within a Metropolitan Statistical Area.

§ 2505.32 Eligibility.

For the purposes of this subpart, States, local governments, and public and private nonprofit organizations are eligible to receive awards as specified in the **Federal Register** announcing the availability of funds for this program.

§ 2505.33 Projects to be funded.

The Commission will support demonstration projects providing education, human, environmental, and public safety service performed by students, school dropouts, and out-of-school youth, in rural areas, including services for the elderly, assisted living services for the elderly and individuals with disabilities, and services targeted at the needs of low-income individuals in the community.

§ 2505.34 Allowable uses of funds.

Grantees may use funds provided under this program to support and operate the demonstration project.

§ 2505.35 Selection criteria.

The Commission makes awards under this program on the basis of the criteria specified below. The Commission shall determine the following in evaluating applications:

(a) The quality of the plan of operation and staffing, including the quality of the management plan, adequacy of the proposed budget in relation to the objectives, evaluation plan, and qualifications and capability of any staff assigned to the project;

(b) The ability of the proposed program to address the particular needs of assisted individuals in rural areas;

(c) The innovation of the program; and

(d) The demonstrated ability to achieve the goals of this chapter.

Grantees may use funds provided under this program to support and operate the demonstration project.

Subpart E—Assistance for Head Start

§ 2505.40 Purpose.

The purpose of this program is to increase the number of low-income individuals who provide services under the Foster Grandparent program to children who participate in Head Start programs.

§ 2505.41 Eligibility.

Only those organizations which have a grant from ACTION, the Federal Domestic Volunteer Agency, to operate a Foster Grandparent program, are eligible to receive awards.

§ 2505.42 Applicable requirements.

Grantees' activities under this program are limited to the support of children who participate in Head Start programs.

§ 2505.43 Relationship with ACTION.

The Commission, at its discretion and with the concurrence of the Director of ACTION, may enter into an agreement to issue awards under this program through ACTION. If this agreement is applicable in any given year, the terms of the agreement will define the award process, and eligible applicants will be informed of the process through the notice of funding availability.

§ 2505.44 Selection criteria.

The Commission shall make grants under this program on the basis of the criteria specified below. The Commission shall consider the following in evaluating applications:

(a) The effectiveness of the project in addressing the needs of children enrolled in Head Start programs;

(b) The quality of the plan of operation and staffing, including the quality of the management plan, adequacy of the proposed budget in relation to objectives, and qualifications and capability of any staff assigned to the program;

(c) The demonstrated innovation of the program;

(d) The percentage of children in need not currently served by the program in the community;

(e) The unavailability of alternate funding sources to applicants; and

(f) The demonstrated ability to achieve the goals of this.

Subpart F—Employer-based Retiree Volunteer Programs

§ 2505.50 Purpose.

The purpose of the program is to provide support to bring together retirees, their former employers, and community agencies to develop employer-based retiree volunteer programs.

§ 2505.51 Eligibility.

Public and private nonprofit organizations are eligible to receive awards.

§ 2505.52 Projects to be funded.

The Commission will support projects involving retirees, their former employers, and community agencies engaged in volunteer activities.

§ 2505.53 Selection criteria.

The Commission makes awards under this program on the basis of the criteria specified below. The Commission shall consider the following in evaluating applications:

(a) The effectiveness of the program in addressing the needs of the community;

(b) The quality of the plan of operation and staffing, including the quality of the management plan, adequacy of the proposed budget in relation to objectives, and qualifications and capability of any staff assigned to the project;

(c) The demonstrated innovation of the program;

(d) The effectiveness of the program in involving retirees, their former employers, and community organizations in working together to address the needs of the local community; and

(e) The demonstrated ability to achieve the goals of this.

PART 2506—ADMINISTRATIVE REQUIREMENTS

Subpart A—Program Specific Requirements

Sec.

Authority: 42 U.S.C. 12501 et. seq.

Subpart A—Program Specific Requirements

§ 2506.1 Reporting specific requirements.

(a) Requirement for State reports. (1) Each State receiving assistance under this Chapter shall prepare and submit to the Commission an annual report concerning the use of Federal funds under this Chapter and the status of national and community service programs in the State; and

(2) The report shall include information demonstrating compliance with the provisions of this chapter, including §§ 2501.5(a)(9) and 2506.2, and any additional information requested by the Commission.

(b) Requirement for Reports from Local Grantees to the State. In order to meet the requirement in § 2506.1(a), each State may require local grantees to supply such information as is necessary, including a comparison of actual accomplishments with the goals established for the program, the number of participants, the number of service hours generated, and the existence of any problems, delays, or adverse conditions that have affected or will affect the attainment of program goals. In addition, local grantees may be asked to provide information to the State demonstrating compliance with the provisions of the chapter.

(c) Requirement for Reports from Local Grantees Receiving Grants Directly From the Commission. If a local grantee, including an institution of higher education, has received a grant directly from the Commission, the local grantee will be required to provide directly to the Commission a report concerning the use of Federal funds under this chapter, and such other information as is necessary, including a comparison of actual accomplishments with the goals established for the program, the number of participants, the number of service hours generated, and the existence of any problems, delays, or adverse conditions that have affected or will affect the attainment of program goals. In addition, local grantees may be asked to provide information to the Commission demonstrating compliance with the provisions of the chapter.

(d) Availability of report. Reports submitted to the Commission by the States and local grantees shall be made available to the public upon request.

§ 2506.2 Supplementation, nonduplication, and nondisplacement.

(a) *Supplementation.* (1) Recipients of funds under this Chapter are advised that such funds are to be used only to supplement, not supplant, State and local public funds expended for services of the type assisted under this Chapter in the previous fiscal year.

(2) Paragraph (a) of this section shall be satisfied, with respect to a particular program, if the aggregate expenditure for such program for the fiscal year in which services are to be provided will not be less than the aggregate expenditure for such program in the previous fiscal year, excluding the amount of Federal assistance provided and any other amounts used to pay the remainder of the costs of programs assisted under this chapter.

(b) *Nonduplication.* (1) In general, funds may be used only for a program that does not duplicate, and is in addition to, an activity performed by paid employees in the locality being served by the program; this requirement shall not be construed to bar the replication of an exemplary volunteer or community service program; and

(2) Assistance made available under this chapter shall not be provided to a private nonprofit entity to conduct activities that are the same or substantially equivalent to activities provided by a State or local government agency that such entity resides in, unless the requirements of paragraph (c) of this section are met.

(c) *Nondisplacement.* Further, an employer shall not displace an employee or position, including partial displacement such as reduction in hours, wages, or employment benefits, as a result of the assistance used by the employer of a participant in a program funded under this chapter. A service opportunity may not infringe in any manner on the promotional opportunity of an employed individual. Services may not be performed that would supplant the hiring of employed workers or would otherwise be performed by an employee, including an employed worker who recently resigned or was discharged; an employee who is subject to a reduction in force; an employee who is on leave (terminal, temporary, vacation, emergency, or sick); or an employee who is on strike or who is being locked out.

§ 2506.3 Suspension or termination of payments.

(a) *General.* The Commission may, in accordance with the provisions of this chapter, suspend or terminate payments under a grant or contract awarded under this chapter whenever the Commission

determines there is a material failure, or threat of failure, to comply with the applicable terms and conditions of the grant or contract or to protect the fiduciary interests of the government.

(b) *Summary action.* In emergency situations, the Commission may summarily suspend a grant or contract for not more than 30 days. Examples of emergency situations that would allow such action are serious risk to persons or property; violations of Federal, State, or local criminal statutes; or material violations of the grant or contract that are sufficiently serious that they outweigh the general policy in favor of advance notice and opportunity to show cause.

(c) *Suspension or termination notice.* The Commission shall notify a recipient by letter or telegram that the Commission intends to suspend or terminate assistance either in whole or in part unless the recipient shows good cause why such assistance should not be suspended. In this communication, the grounds and the effective date for the proposed suspension or termination shall be described. The recipient shall be given at least 7 calendar days to submit written material in opposition to the proposed action.

(d) *Hearings.* The recipient may request a hearing on a proposed suspension or termination. With 5 days notice to the recipient, the Commission may authorize the conduct of a hearing or other meeting, at a location convenient to the recipient, to consider the proposed suspension or termination. A transcript or recording shall be made of such a hearing or meeting and it shall be available for inspection by any individual.

(e) *Decision.* The Commission's decision on suspension or termination of a grant or contract shall be final and shall be delivered by letter or telegram.

§ 2506.4 Grievance procedure.

(a) *General.* State and local applicants that receive assistance under this chapter shall establish and maintain a procedure to adjudicate grievances from participants, labor organizations, and other interested individuals concerning programs that receive assistance under this chapter. Such grievances may include proposed placements of participants in projects receiving assistance.

(b) *Deadline for grievances.* Except for a grievance that alleges fraud or criminal activity, a grievance shall be made not later than 1 year after the date of an alleged occurrence.

(c) *Deadline for hearing and decision.* If a hearing is held on a grievance, it shall be conducted no later than 30 days from the date of the filing of the grievance. A decision shall be made not later than 60 days from the date of the filing of the grievance.

(d) *Arbitration.* When there is an adverse decision on a grievance, or 60 days after the filing of a grievance if no decision has been reached, the party filing the grievance shall submit the grievance to binding arbitration before a qualified arbiter who is jointly selected and independent of the interested parties. Any resulting proceedings shall be held no later than 45 days after the request for arbitration, with a decision made not later than 30 days after the date of the proceeding. The cost of arbitration shall be divided evenly between the parties to the arbitration.

(e) *Proposed placement.* If a grievance is filed regarding a proposed placement of a participant in a program that receives assistance under this chapter, such placement shall not be made unless it is consistent with the resolution of the grievance in accordance with the requirements of this part.

(f) *Remedies.* Remedies for a grievance filed under this part include suspension or termination of payments for assistance under this chapter Act, and prohibition of a placement of a participant described in paragraph (e) of this section.

§ 2506.5 Prohibition on use of funds for certain purposes.

(a) *Prohibited uses.* No assistance made available under a grant under this chapter shall be used to provide religious instruction, conduct worship services, or engage in any form of proselytization.

(b) *Political activity.* Assistance provided under this chapter shall not be used by program participants and program staff to:

(1) Assist, promote, or deter union organizing; or

(2) Finance, directly or indirectly, any activity designed to influence the outcome of an election to Federal office or the outcome of an election to a State or local public office.

(c) *Contracts or collective bargaining agreements.* A project that receives assistance under this chapter shall not impair existing contracts for services or collective bargaining agreements.

§ 2506.6 Standards of conduct.

Programs that receive assistance under this chapter shall establish and stringently enforce standards of conduct at the program site to promote proper moral and disciplinary conditions.

§ 2506.7 Treatment of benefits.

Living allowances and post-service benefits provided to individuals participating in programs under this chapter shall not be considered as income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need, other than programs under the Social Security Act.

§ 2506.8 Program evaluation.

(a) *General.* The Commission has broad responsibility for the continuing evaluation of programs receiving assistance under this chapter. In turn, program participants, States, and local grantees have the responsibility to provide information to the Commission as required by the Commission in order to evaluate programs and projects funded under this chapter. State and local grantees may be required to assist in the selection of, and collection of information about, control groups of individuals who are not selected to participate in funded programs.

(b) Standards for the evaluation of program effectiveness. (1) All funded programs will be evaluated based on their effectiveness in achieving any or all of the goals of this chapter.

(2) Specific evaluation standards for each of these broad goals will be established by the Commission and made available to funded programs and the public.

(c) Program objectives. Programs receiving funds under part 2504 will be evaluated to determine their effectiveness in:

(1) Recruiting and enrolling diverse participants in such programs based on economic background, race, ethnicity, gender, age, marital status, education levels, and ability and disability;

(2) Promoting the educational achievement of each participant based on earning a high school diploma or its equivalent and the future enrollment and completion of increasingly higher levels of education;

(3) Encouraging each participant to engage in public and community service after completing of the program based on career choices and service in other service programs such as VISTA, the Peace Corps, the military, and part-time volunteer service;

(4) Promoting positive attitudes among each participant regarding the participant's role in solving community problems, ability to improve the lives of others, sense of responsibilities as a citizen and community member, and other factors;

(5) Enabling participants to finance a lesser portion of their higher education through student loans;

(6) Providing services and projects that benefit the community;

(7) Supplying additional volunteer assistance to community agencies without overloading such agencies with more volunteers than can be utilized effectively;

(8) Providing service and activities that could not otherwise be performed by employed workers and that will not supplant the hiring of, or result in the displacement of, employed workers or impair the existing contracts of such workers; and

(9) Attracting a greater number of citizens to public service, including service in the active and reserve components of the Armed Forces, the National Guard, the Peace Corps, VISTA, and the Older American Volunteer Programs.

(d) The Commission shall keep confidential the information acquired about individual participants or members of control groups from evaluations under paragraph (c) of this section.

§ 2506.9 Treatment of living allowances.

Living allowances received under this chapter shall not be considered in the determination of expected family contribution or independent student status under subpart 1 of part A of title IV, and part F of title IV, of the Higher Education Act of 1965.

Catherine Milton,

Executive Director, Commission on National and Community Service.

[FR Doc. 92–3134 Filed 2–12–92; 8:45 am]

BILLING CODE 6820-BA-M

federal register

Thursday
February 13, 1992

Part III

Environmental Protection Agency

40 CFR Part 1, et al.

Changes to Regulations to Reflect the Role of the New Environmental Appeals Board in Agency Adjudications; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 1, 3, 17, 22, 27, 57, 60, 66, 85, 86, 114, 123, 124, 164, 209, 222, 223, 233 and 403

[FRL-4086-7]

Changes to Regulations to Reflect the Role of the New Environmental Appeals Board in Agency Adjudications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Under the environmental statutes administered by the Environmental Protection Agency, the Administrator has authority to decide appeals of permit decisions made by the Agency's Regional Administrators and administrative penalty decisions made by the Agency's Administrative Law Judges. Because it is unnecessary and impractical for the Administrator to make all such decisions, the Administrator has in the past either delegated authority to decide appeals in such cases to the Agency's Judicial Officers or decided such appeals himself primarily on the basis of recommendations from the Judicial Officers. As part of the response to an increasing level of administrative adjudications, the Administrator is creating a new entity called the Environmental Appeals Board to hear and decide the kinds of appeals that the Administrator formerly delegated to the Agency's Judicial Officers or decided on the basis of the Judicial Officers' recommendations. The rule promulgated herein makes technical changes to the rules of practice governing Agency permit and penalty decisions to bring such rules into conformity with the Administrator's action. The final rule delegates to the new Environmental Appeals Board the Administrator's authority to hear appeals of permit and penalty decisions. The rule also replaces references to the Judicial Officers and those references to the Administrator relating to appellate functions with references to the Environmental Appeals Board.

EFFECTIVE DATE: March 1, 1992.

FOR FURTHER INFORMATION CONTACT: James W. Black, Administrator's Office (A-101), 401 M Street, SW., Washington, DC, 20460, (202) 260-4076.

SUPPLEMENTARY INFORMATION:

The Environmental Appeals Board

The Administrator has authority to decide appeals of permitting decisions made by Regional Administrators and appeals of administrative penalty decisions made by Administrative Law Judges. In implementing this authority, the Administrator has delegated authority to decide most kinds of appeals to the Agency's Judicial Officers (two EPA attorneys, one denominated the Chief Judicial Officer and the other denominated the Judicial Officer). The Administrator has retained authority to decide a few types of appeals, but has decided such appeals primarily on the basis of recommendations from the Agency's Judicial Officers.

The Agency is now creating a new entity called the Environmental Appeals Board, the purpose of which is to hear and decide appeals in cases that were formerly either delegated to the Judicial Officers or decided on the basis of the Judicial Officers' recommendations. The Judicial Officer positions at EPA Headquarters are being abolished. The establishment of the Board is being accomplished by the Administrator through internal Agency action. The purpose of the rule promulgated herein is only to make technical changes to the rules of practice governing Agency permit and penalty decisions to bring such rules into conformity with the Administrator's action.

The Board will be a permanent body with continuing functions. It will be composed of three Environmental Appeals Judges designated by the Administrator. The Board will decide each matter before it by majority vote in accordance with applicable statutes and regulations. Two Board members constitute a quorum, and if the absence or recusal of a Board member so requires, the Board may sit as a Board of two members. In the case of a tie vote, the matter shall be referred to the Administrator to break the tie.

The rule promulgated herein defines the Board and sets qualifications for Board members. It also includes express delegations of authority from the Administrator to the Board to hear and decide appeals of various types of cases. Under the old scheme, the rules of practice governing Agency adjudications did not actually delegate authority to the Judicial Officers (with the exception of the Equal Access to Justice Act regulations in part 17). Instead, the rules merely recognized the possibility of such a delegation, while the actual delegations were accomplished through an internal Agency document called the delegations manual. By contrast, under the rule promulgated herein, the rules of practice actually effect the delegation of the Administrator's authority. In addition, the rule replaces references to the Judicial Officer and those references to the Administrator related to appellate functions with references to the Environmental Appeals Board.

The approach adopted in this rule, while having the same practical effect as the previous approach, is designed to provide greater clarity. Under the old approach, in which delegations of authority were effected in a separate internal delegations manual, there was considerable confusion in the regulated community over the role of the Judicial Officers in Agency adjudications. The approach adopted in this rule reflects more clearly and directly the role of the Board as the final decisionmaker in Agency adjudications. Also, effecting the delegation directly in the regulation confers on the Board the dignity and stature that is appropriate for the Agency's highest adjudicative body. The old approach, in which the rules of practice merely recognized the possibility of a delegation, was rejected because it might have fostered the perception that the Board is an ad hoc, provisional body.

As a result of the rule promulgated today, the Board now holds delegated authority from the Administrator to hear and decide the following types of cases:

—Appeals of cases arising under the Equal Access to Justice Act (EAJA) (5 U.S.C. 504), which are governed by the procedures set out in part 17;

—Appeals of civil penalty cases arising under sections 3005(e), 3008, 9006, 11005 of the Solid Waste Disposal Act (RCRA), as amended (42 U.S.C. 6925, 6928, 6991(e), and 6992(d)), which are governed by the procedures set out in part 22;

—Appeals of civil penalty cases arising under section 211 of the Clean Air Act (CAA), as amended (42 U.S.C. 7545), which are governed by the procedures set out in part 22;

—Appeals of Class II penalty cases arising under section 309(g) of the Clean Water Act (CWA) (33 U.S.C. 1319(g)), which are governed by the procedures set out in part 22;

—Appeals of civil penalty cases arising under section 16(a) of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2615(a)), which are governed by the procedures set out in part 22;

—Appeals of civil penalty cases arising under section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 1361(a)), which are governed by the procedures set out in part 22;

—Appeals of administrative penalty cases arising under section 325 of the Emergency Planning and Community Right to Know Act (EPCRA) (42 U.S.C.

11045), which are governed by the procedures set out in part 22;
—Appeals of civil penalties cases arising under sections 105 (a) and (f) of the Marine Protection, Research, Sanctuaries Act of 1972 (MPRSA) (33 U.S.C. 1415(a)), which are governed by the procedures set out in part 22;
—Appeals of administrative penalty cases arising under section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA) (42 U.S.C. 9609), which are governed by the procedures set out in part 22.
—Appeals of civil penalty cases arising under section 1414(g)(3)(B) of the Safe Drinking Water Act as amended (42 U.S.C. 300g–3(g)(3)(B)), which are governed by the procedures set out in part 22.
—Appeals of cases arising under the Program Fraud Civil Remedies Act (31 U.S.C. 3801), which are governed by the procedures set out in part 27;
—Appeals of determinations under § 60.539, which deals with standards of performance for new residential wood heaters promulgatged under the Clean Air Act.
—Appeals of Clean Air Act section 120 noncompliance penalty cases, which are governed by the procedures set out in part 66;
—Appeals of cases arising under the Clean Air Act involving control of air pollution from motor vehicles and motor vehicle engines, which are governed by the procedures set out in part 85;
—Appeals of cases arising under the Clean Air Act involving control of air pollution from new motor vehicles and new motor vehicle engines and certification and test procedures, which are governed by the procedures set out in part 86;
—Appeals of Spill Prevention, Containment and Control (SPCC) penalty cases arising under the Clean Water Act, which are governed by the oil pollution prevention regulations set out in part 114;
—Appeals from permit decisions made by Regional Administrators and Administrative Law Judges under the Clean Water Act (NPDES), which are governed by the procedures set out in part 124;
—Appeals from permit decisions made by Regional Administrators under RCRA, which are governed by the procedures set out in part 124;
—Appeals from permit decisions made by Regional Administrators and delegated States under the Clean Air Act (PSD permits), which are governed by the procedures set out in part 124;
—Appeals from permit decisions made by Regional Administrators under the Safe Drinking Water Act (UIC permits), which are governed by the procedures set out in part 124;
—Appeals of FIFRA cancellation, suspension and compensation cases, which are governed by the procedures set out in part 164;
—Appeals of cases under the Noise Control Act, which are governed by the procedures set out in part 209;
—Appeals from permit decisions made by Regional Administrators under the Marine Protection, Research, and Sanctuaries Act (MPRSA), which are governed by the procedures set out in part 222.
—Appeals of determinations under § 403.13, which deals with "fundamentally different factors" variances from Clean Water Act categorical pretreatment standards for publicly owned treatment works.

The Board will also have authority to decide appeals in cases arising under section 113(d) of the Clean Air Act, as soon as final action is taken on a proposed rule to make such cases subject to part 22. In addition, it is expected that the Administrator will, on occasion, ask the Board for advice and consultation on decisions that the Administrator has not delegated to the Board through these rule changes. In such cases, the Administrator may ask the Board to make findings of fact or conclusions of law, to prepare a recommended decision for the Administrator's consideration, or to serve as the final decisionmaker for the Agency, as is appropriate to a particular case.

The provisions promulgated herein to effect the delegation of the Administrator's authority to the Board provide that the delegation of authority does not preclude the Board from referring a particular case or motion to the Administrator for decision when the Board deems it appropriate to do so. The language of the provisions makes clear, however, that an appeal or motion for reconsideration of a Board decision must be directed to the Board. An appeal or motion for reconsideration directed to the Administrator will not be considered. One of the goals of the Board is to relieve the Administrator of the responsibility for responding to appeals. Allowing parties to petition the Administrator directly to hear an appeal or to overturn a Board decision would defeat this goal. It is expected that the Board will exercise its discretion to refer cases or motions to the Administrator directly to hear an appeal or to overturn a Board decision would defeat this goal. It is expected that the Board will exercise its discretion to refer cases or motions to the Administrator only in exceptional circumstances.

The rule promulgated herein also amends parts of Title 40 under which the Board will not have authority to hear appeals, but which contain incidental references to the Judicial Officer that need to be removed to reflect the abolition of that position. The following provisions have been amended for that purpose:

(1) Sections 57.103, 57.806, 57.809, relating to primary nonferrous smelter orders;

(2) Section 123.64, governing withdrawal of State NPDES programs;

(3) Section 223.4, relating to the revision, revocation, or limitation of ocean dumping permits under the Marine Protection, Research, and Sanctuaries Act;

(4) Section 233.53, relating to withdrawal of section 404 State program approval.

The Environmental Appeals Board will decide any appeals or related matters covered in this rule that are pending before a Judicial Officer or the Administrator at the time this rule becomes effective.

Reasons for the Change

The Environmental Appeals Board is being established to adapt the Agency's administrative appeals process to new realities facing the Agency. In recent years, the Agency has stepped up enforcement of the environmental statutes it is charged with administering. In addition, statutory amendments (most recently the Clean Air Act Amendments of 1990) have greatly increased the Agency's administrative penalty authority. This increase in administrative enforcement activity will continue to generate an increasing number of appeals to the Administrator. The Agency has also received a greater number of permit applications, resulting in more appeals from the permit decisions of Regional Administrators. As a result, the Agency needs to direct more resources to its administrative appeals process, so that it may keep pace with the growing case docket. The establishment of the Environmental Appeals Board will allow the Agency to do this. Another advantage of the Board is that it will allow for a broader range of input and perspective in administrative decisionmaking. It will do this in two ways. First, three individuals, rather than just one, will review each case, lending greater authority to the Agency's decisions. Second, the Board anticipates that, in

appropriate cases, it will exercise its discretionary authority to grant or require oral argument, an authority that the Judicial Officers held under the rules but did not exercise. Another virtue of the Board is that it will make clear that the Administrator's enforcement authority (delegated to various Regional and Headquarters enforcement officers) and the Administrator's adjudicative authority are delegated to, and exercised by, separate and distinct components of the Agency, thus inspiring confidence in the fairness of Agency adjudications. Finally, the creation of the Board confers on Agency appellate proceedings the stature and dignity that are commensurate with the growing importance of such proceedings.

Issuance of Rule on Final Basis

The rule promulgated herein is being issued on a final basis pursuant to the Administrative Procedure Act, which allows the issuance of rules without prior notice and comment where the rules concern agency practice or procedure. 5 U.S.C. 553(b)(A). All of the changes made in this notice affect only Agency practice and procedure. None of the changes are substantive in nature. Accordingly, the Agency may take final action approving these rule changes without first providing for notice and comment.

Effective Date of Rule

The rule promulgated herein will become effective on March 1, 1992. This effective date was chosen to coincide with the internal Agency actions creating the Environmental Appeals Board and abolishing the positions of the Judicial Officers.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities. In such circumstances, a regulatory flexibility analysis is not required. The rule promulgated herein is not expected to have any impact on small entities. The rule does not impose additional regulatory requirements on small entities. Accordingly, the Administrator certifies that these regulations will not have a significant impact on a substantial number of small entities. These regulations, therefore, do not require a regulatory flexibility analysis.

Executive Order No. 12291

The rule promulgated herein has been reviewed under Executive Order 12291. The rule does not constitute a "major" regulation within the meaning of Executive Order 12291, because it will *not* result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or U.S. enterprises operating in foreign or domestic markets. Because the rule promulgated herein is not a "major" regulation, the Agency is not required to conduct a Regulatory Impact Analysis.

Paper Work Reduction Act

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction act of 1980.

List of Subjects

40 CFR Part 1

Organization and functions (Government agencies).

40 CFR Part 3

Conflicts of interest.

40 CFR Part 17

Claims, Equal access to justice, Lawyers.

40 CFR Part 22

Administrative practice and procedure, Air pollution control, Hazardous substances, Hazardous waste, Penalties, Pesticides and pests, Poison prevention, Water pollution control.

40 CFR Part 27

Administrative practice and procedure, Claims, Fraud, Penalties.

40 CFR Part 57

Administrative practice and procedure, Air pollution control, Intergovernmental relations.

40 CFR Part 60

Administrative practice and procedure, Air pollution control, Penalties.

40 CFR Part 85

Confidential business information, Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

40 CFR Part 86

Administrative practice and procedure, Confidential business information, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

40 CFR Part 114

Administrative practice and procedure, Oil pollution, Penalties.

40 CFR Part 123

Administrative practice and procedure, Confidential business information, Hazardous substances, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 124

Administrative practice and procedure, Air pollution control, Hazardous waste, Indians-lands, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 164

Administrative practice and procedure, Pesticides and pests.

40 CFR Part 209

Administrative practice and procedure, Noise control.

40 CFR Part 222

Administrative practice and procedure, water pollution control.

40 CFR Part 223

Administrative practice and procedure, Water pollution control.

40 CFR Part 233

Administrative practice and procedure, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 403

Confidential business information, Reporting and recordkeeping requirement, Waste treatment and disposal, Water pollution.

Dated: January 27, 1992.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, title 40 is amended, effective March 1, 1992, as follows:

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

1. The authority citation for part 1 continues to read as follows:

Authority: 5 U.S.C 552.

2. Section 1.25 is amended by adding paragraph (e) to read as follows:

§ 1.25 Staff Offices.

* * * * *

(e)(1) *Environmental Appeals Board.* The Environmental Appeals Board is a permanent body with continuing functions composed of three Board Members designated by the Administrator. The Environmental Appeals Board shall decide each matter before it in accordance with applicable statutes and regulations. The Environmental Appeals Board shall decide each matter by majority vote. Two Board Members constitute a quorum, and if the absence or recusal of a Board Member so requires, the Board shall sit as a Board of two Members. In the case of a tie vote, the matter shall be referred to the Administrator to break the tie.

(2) *Functions.* The Environmental Appeals Board shall exercise any authority expressly delegated to it in this title. With respect to any matter for which authority has not been expressly delegated to the Environmental Appeals Board, the Environmental Appeals Board shall, at the Administrator's request, provide advice and consultation, make findings of fact and conclusions of law, prepare a recommended decision, or serve as the final decisionmaker, as the Administrator deems appropriate. In performing its functions, the Environmental Appeals Board may consult with any EPA employee concerning any matter governed by the rules set forth in this title, provided such consultation does not violate applicable ex parte rules in this title.

(3) *Qualifications.* Each member of the Environmental Appeals Board shall be a graduate of an accredited law school and a member in good standing of a recognized bar association of any state or the District of Columbia. Board Members shall not be employed by the Office of Enforcement, the Office of the General Counsel, a Regional Office, or any other office directly associated with matters that could come before the Environmental Appeals Board. A Board Member shall recuse himself or herself from deciding a particular case if that Board Member in previous employment performed prosecutorial or investigative functions with respect to the case, participated in the preparation or presentation of evidence in the case, or was otherwise personally involved in the case.

PART 3—EMPLOYEE RESPONSIBILITIES AND CONDUCT

1. The authority citation for part 3 continues to read as follows:

Authority: E.O. 11222, 30 FR 6460; 3 CFR 1964–65 Comp., p. 306; 5 CFR parts 734, 735 and 737.

2. Appendix C of subpart A is amended by revising 2(a), the first paragraph of 9(a), and the last sentence of the second paragraph of 9(a) to read as follows:

Appendix C to Subpart A—Procedures for Administrative Enforcement of Post-Employment Restrictions

* * * * *

2. * * *

* * * * *

(a) A member of the Environmental Appeals Board or its designee is the presiding official as provided by paragraph 9(a) of this appendix;

* * * * *

9. * * *

* * * * *

(a) *The Presiding Official.* A member of the Environmental Appeals Board or its designee presides at the hearing. The Presiding Official, if not a member of the Environmental Appeals Board, must be an attorney and an employee of the Environmental Protection Agency. If the Environmental Appeals Board designates a Presiding Official other than one of its members, it must promptly notify the former employee and the Inspector General of the Presiding Official's name, address and telephone number.

* * * The Environmental Appeals Board may remove a Presiding Official for cause.

* * * * *

PART 17—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN EPA ADMINISTRATIVE PROCEEDINGS

1. The authority citation for part 17 continues to read as follows:

Authority: Section 504, Title 5 U.S.C., as amended by sec. 203(a)(1), Equal Access to Justice Act (Title 2 of Pub. L. 96–481, 94 Stat. 2323).

2. Section 17.8 is revised to read as follows:

§ 17.8 Delegation of authority.

The Administrator delegates to the Environmental Appeals Board authority to take final action relating to the Equal Access to Justice Act. The Environmental Appeals Board is described at 40 CFR 1.25(e). This delegation does not preclude the Environmental Appeals Board from referring any matter related to the Equal Access to Justice Act to the Administrator when the Environmental Appeals Board deems it appropriate to do so. When an appeal or motion is referred to the Administrator by the Environmental Appeals Board, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

3. Section 17.14 is amended by revising paragraph (b) to read as follows:

§ 17.14 Time for submission of application.

* * * * *

(b) Final disposition means the later of: (1) The date on which the Agency decision becomes final, either through disposition by the Environmental Appeals Board of a pending appeal or through an initial decision becoming final due to lack of an appeal or (2) the date of final resolution of the proceeding, such as settlement or voluntary dismissal, which is not subject to a petition for rehearing or reconsideration.

* * * * *

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION OR SUSPENSION OF PERMITS

1. The authority citation for part 22 continues to read as follows:

Authority: Sec. 16 of the Toxic Substances Control Act, 15 U.S.C. 2615; secs. 211 and 301 of the Clean Air Act, 42 U.S.C. 7545 and 7601; secs. 14 and 15 of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136l and 136m; secs. 105 and 108 of the Marine Protection, Research and Sanctuaries Act, 33 U.S.C. 1415 and 1418; secs. 2002 and 3008 of the Solid Waste Disposal Act, 42 U.S.C. 6912 and 6928; sec. 501 of the Clean Water Act, 33 U.S.C. 1361; and, sec. 1414 of the Safe Drinking Water Act, 42 U.S.C. 300g–3.

2. Section 22.03 is amended by revising the definition of "Complainant," removing the definition of "Judicial Officer" and adding the definition of "Environmental Appeals Board" in alphabetical order to read as follows:

§ 22.03 Definitions.

* * * * *

Complainant means any person authorized to issue a complaint on behalf of the Agency to persons alleged to be in violation of the Act. The complainant shall not be a member of

the Environmental Appeals Board, the Regional Judicial Officer, or any other person who will participate or advise in the decision.

* * * * *

Environmental Appeals Board means the Board within the Agency described in § 1.25 of this title, located at U.S. Environmental Protection Agency, A–110, 401 M St. SW., Washington, DC 20460.

* * * * *

3. Section 22.04 is amended by revising paragraphs (a) and (b), the first, third, and fourth sentences of paragraph (d)(1), and paragraph (d)(2) to read as follows:

§ 22.04 Powers and duties of the Environmental Appeals Board, the Regional Administrator, the Regional Judicial Officer and the Presiding Officer; disqualification.

(a) *Environmental Appeals Board.* The Administrator delegates authority under the Act to the Environmental Appeals Board to perform the functions assigned to it in these rules of practice. An appeal or motion under this part directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring any case or motion governed by this part to the Administrator when the Environmental Appeals Board, in its direction, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator. If a case or motion is referred to the Administrator by the Environmental Appeals Board, the Administrator may consult with any EPA employee concerning the matter, provided such consultation does not violate the ex parte rules set forth in § 22.08.

(b) *Regional Administrator.* The Regional Administrator shall exercise all powers and duties as prescribed or delegated under the Act and these rules of practice.

(1) *Delegation to Regional Judicial Officer.* One or more Regional Judicial Officers may be designated by the Regional Administrator to perform, within the region of their designation, the functions described below. The Regional Administrator may delegate his or her authority to a Regional Judicial Officer to act in a given proceeding. This delegation will not prevent the Regional Judicial Officer from referring any motion or case to the Regional Administrator. The Regional Judicial Officer shall exercise all powers and duties prescribed or delegated under the Act or these rules of practice.

(2) *Qualifications of Regional Judicial Officer.* A Regional Judicial Officer shall be an attorney who is a permanent or temporary employee of the Agency or some other Federal agency and who may perform other duties within the Agency. A Regional Judicial Officer shall not be employed by the Region's Enforcement Division or by the Regional Division directly associated with the type of violation at issue in the proceeding. A Regional Judicial Officer shall not have performed prosecutorial or investigative functions in connection with any hearing in which he serves as a Regional Judicial Officer or with any factually related hearing.

* * * * *

(d) * * * (1) The Administrator, the Regional Administrator, the members of the Environmental Appeals Board, the Regional Judicial Officer, or the Presiding Officer may not perform functions provided for in these rules of practice regarding any matter in which they (i) have a financial interest or (ii) have any relationship with a party or with the subject matter which would make it inappropriate for them to act. * * * Any party may at any time by motion to the Administrator request that the Regional Administrator, a member of the Environmental Appeals Board, or the Presiding Officer be disqualified or request that the Administrator disqualify himself or herself from the proceeding. The Administrator, the Regional Administrator, a member of the Environmental Appeals Board, the Regional Judicial Officer, or the Presiding Officer may at any time withdraw from any proceeding in which they deem themselves disqualified or unable to act for any reason.

(2) If the Administrator, the Regional Administrator, the Regional Judicial Officer, or the Presiding Officer is disqualified or withdraws from the proceeding, a qualified individual who has none of the infirmities listed in paragraph (d)(1) of this section shall be assigned to replace him. Assignment of a replacement for Regional Administrator or for the Regional Judicial Officer shall be made by the Administrator or the Regional Administrator, respectively. The Administrator, should he or she withdraw or disqualify himself or herself, shall assign the Regional Administrator from the Region where the case originated to replace him or her. If that Regional Administrator would be disqualified, the Administrator shall assign a Regional Administrator from another region to replace the Administrator. The Regional Administrator shall assign a new Presiding Officer if the original Presiding Officer was not an Administrative Law Judge. The Chief Administrative Law Judge shall assign a new Presiding Officer from among available Administrative Law Judges if the original Presiding Officer was an Administrative Law Judge.

* * * * *

4. Section 22.05 is amended by revising paragraph (c)(1) and the first and third sentences of paragraph (c)(5) to read as follows.

§ 22.05 Filings, service, and form of pleadings and documents.

* * * * *

(c) * * * (1) Except as provided herein, or by order of the Presiding Officer or of the Environmental Appeals Board, there are no specific requirements as to the form of documents.

* * * * *

(5) The Environmental Appeals Board, the Regional Administrator, the Presiding Officer, or the Regional Hearing Clerk may refuse to file any document which does not comply with this paragraph. * * * Such person may amend and resubmit any document refused for filing upon motion granted by the Environmental Appeals Board, the Regional Administrator, or the Presiding Officer, as appropriate.

5. Section 22.06 is amended by revising the second and third sentences to read as follows:

§ 22.06 Filing and service of rulings, orders, and decisions.

* * * All such documents issued by the Environmental Appeals Board shall be filed with the Clerk of the Environmental Appeals Board. Copies of such rulings, orders, decisions, or other documents shall be served personally, or by certified mail, return receipt requested, upon all parties by the Environmental Appeals Board, the Regional Administrator, the Regional Judicial Officer, or the Presiding Officer, as appropriate.

6. Section 22.07 is amended by revising the first sentence of paragraph (b) to read as follows:

§ 22.07 Computation and extension of time.

* * * * *

(b) * * * The Environmental Appeals Board, the Regional Administrator, or the Presiding Officer, as appropriate, may grant an extension of time for the

filing of any pleading, document, or motion (1) upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties, or (2) upon its or his own motion. * * *

* * * * *

7. Section 22.08 is amended by revising the first and second sentences to read as follows:

§ 22.08 Ex parte discussion of proceeding.

At no time after the issuance of the complaint shall the Administrator, the members of the Environmental Appeals Board, the Regional Administrator, the Regional Judicial Officer, the Presiding Officer, or any other person who is likely to advise these officials in the decision on the case, discuss ex parte the merits of the proceeding with any interested person outside the Agency, with any Agency staff member who performs a prosecutorial or investigative function in such proceeding or a factually related proceeding, or with any representative of such person. Any ex parte memorandum or other communication addressed to the Administrator, the Regional Administrator, the Environmental Appeals Board, the Regional Judicial Officer, or the Presiding Officer during the pendency of the proceeding and relating to the merits thereof, by or on behalf of any party shall be regarded as argument made in the proceeding and shall be served upon all other parties.

* * *

8. Section 22.09(a) is amended by revising the second sentence to read as follows:

§ 22.09 Examination of documents filed.

(a) * * * Such documents shall be made available by the Regional Hearing Clerk, the Hearing Clerk, or the Environmental Appeals Board, as appropriate.

* * * * *

9. Section 22.11 is amended by revising the third sentence of paragraph (d) to read as follows:

§ 22.11 Intervention.

* * * * *

(d) * * * If the motion is granted, the Presiding Officer or the Environmental Appeals Board shall issue an order setting the time for filing such brief.

* * *

10. Section 22.16 is amended by revising the first sentence of paragraph (b) and the second and fourth sentences of paragraph (c) to read as follows:

§ 22.16 Motions.

* * * * *

(b) * * * The Presiding Officer, the Regional Administrator, or the Environmental Appeals Board, as appropriate, may set a shorter time for response, or make such other orders concerning the disposition of motions as they deem appropriate.

(c) * * * The Environmental Appeals Board shall rule on all motions filed or made after service of the initial decision upon the parties. * * * Oral argument on motions will be permitted where the Presiding Officer, the Regional Administrator, or the Environmental Appeals Board considers it necessary or desirable.

11. Section 22.23 is amended by revising the last sentence of paragraph (b) to read as follows:

§ 22.23 Objections and offers of proof.

* * * * *

(b) * * * Where the Environmental Appeals Board decides that the ruling of the Presiding Officer in excluding the evidence was both erroneous and prejudicial, the hearing may be reopened to permit the taking of such evidence.

12. Section 22.27 is amended by revising the last sentence of paragraph (a) and paragraph (c) to read as follows:

§ 22.27 Initial decision.

(a) * * * The Hearing Clerk shall forward a copy of the initial decision to the Environmental Appeals Board.

* * * * *

(c) *Effect of initial decision.* The initial decision of the Presiding Officer shall become the final order of the Environmental Appeals Board within forty-five (45) days after its service upon the parties and without further proceedings unless (1) an appeal to the Environmental Appeals Board is taken from it by a party to the proceedings, or (2) the Environmental Appeals Board elects, sua sponte, to review the initial decision.

13. Section 22.29 is amended by revising the first and second sentences of paragraph (a), paragraph (b), the first, second, third and fifth sentences of paragraph (c), and the first and third sentences of paragraph (d) to read as follows:

§ 22.29 Appeal from or review of interlocutory orders or rulings.

(a) * * * Except as provided in this section, appeals to the Environmental Appeals Board shall obtain as a matter of right only from a default order, an accelerated decision or decision to dismiss issued under § 22.20(b)(1), or an initial decision rendered after an evidentiary hearing. Appeals from other orders or rulings shall lie only if the Presiding Officer or Regional Administrator, as appropriate, upon motion of a party, certifies such orders or rulings to the Environmental Appeals Board on appeal. * * *

(b) *Availability of interlocutory appeal.* The Presiding Officer may certify any ruling for appeal to the Environmental Appeals Board when (1) the order or ruling involves an important question of law or policy concerning which there is substantial grounds for difference of opinion, and (2) either (i) an immediate appeal from the order or ruling will materially advance the ultimate termination of the proceeding, or (ii) review after the final order is issued will be inadequate or ineffective.

(c) * * * If the Environmental Appeals Board determines that certification was improvidently granted, or if the Environmental Appeals Board takes no action within thirty (30) days of the certification, the appeal is dismissed. When the Presiding Officer declines to certify an order or ruling to the Environmental Appeals Board on interlocutory appeal, it may be reviewed by the Environmental Appeals Board only upon appeal from the initial decision, except when the Environmental Appeals Board determines, upon motion of a party and in exceptional circumstances, that to delay review would be contrary to the public interest. Such motion shall be made within six (6) days of service of an order of the Presiding Officer refusing to certify a ruling for interlocutory appeal to the Environmental Appeals Board. * * * The Environmental Appeals Board may, however, allow further briefs and oral argument.

(d) * * * The Presiding Officer may stay the proceedings pending a decision by the Environmental Appeals Board upon an order or ruling certified by the Presiding Officer for an interlocutory appeal. * * * Where the Presiding Officer grants a stay of more than thirty (30) days, such stay must be separately approved by the Environmental Appeals Board.

14. Section 22.30 is amended by revising the first sentence of paragraph (a)(1), the first and third sentences of paragraph (a)(2), the paragraph heading and the first sentence of paragraph (b), paragraph (c) and paragraph (d) to read as follows:

§ 22.30 Appeal from or review of initial decision.

(a) * * * (1) Any party may appeal an adverse ruling or order of the Presiding Officer by filing a notice of appeal and an accompanying appellate brief with the Environmental Appeals

Board and upon all other parties and amicus curiae within twenty (20) days after the initial decision is served upon the parties. * * *

(2) Within fifteen (15) days of the service of notices of appeal and briefs under paragraph (a)(1) of this section, any other party or amicus curiae may file and serve with the Environmental Appeals Board a reply brief responding to argument raised by the appellant, together with references to the relevant portions of the record, initial decision, or opposing brief. * * * Further briefs shall be filed only with the permission of the Environmental Appeals Board.

(b) *Sua sponte review by the Environmental Appeals Board.* Whenever the Environmental Appeals Board determines sua sponte to review an initial decision, the Environmental Appeals Board shall serve notice of such intention on the parties within forty-five (45) days after the initial decision is served upon the parties. * * *

(c) *Scope of appeal or review.* If the Environmental Appeals Board determines that issues raised, but not appealed by the parties, should be argued, it shall give counsel for the parties reasonable written notice of such determination to permit preparation of adequate argument. Nothing herein shall prohibit the Environmental Appeals Board from remanding the case to the Presiding Officer for further proceedings.

(d) *Argument before the Environmental Appeals Board.* The Environmental Appeals Board may, upon request of a party or sua sponte, assign a time and place for oral argument after giving consideration to the convenience of the parties.

15. Section 22.31 is amended by revising paragraph (a) to read as follows:

§ 22.31 Final order on appeal.

(a) *Contents of the final order.* When an appeal has been taken or the Environmental Appeals Board issues a notice of intent to conduct a review sua sponte, the Environmental Appeals Board shall issue a final order as soon as practicable after the filing of all appellate briefs or oral argument, whichever is later. The Environmental Appeals Board shall adopt, modify, or set aside the findings and conclusions contained in the decision or order being reviewed and shall set forth in the final order the reasons for its actions. The Environmental Appeals Board may, in its discretion, increase or decrease the assessed penalty from the amount recommended to be assessed in the decision or order being reviewed, except that if the order being reviewed is a default order, the Environmental Appeals Board may not increase the amount of the penalty.

* * * * *

16. Section 22.32 is revised to read as follows:

§ 22.32 Motion to reconsider a final order.

Motions to reconsider a final order shall be filed within ten (10) days after service of the final order. Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration under this provision shall be directed to, and decided by, the Environmental Appeals Board. Motions for reconsideration directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered, except in cases that the Environmental Appeals Board has referred to the Administrator pursuant to § 22.04(a) and in which the Administrator has issued the final order. A motion for reconsideration shall not stay the effective date of the final order unless specifically so ordered by the Environmental Appeals Board.

PART 27—PROGRAM FRAUD CIVIL REMEDIES

1. The authority citation for part 27 continues to read as follows:

Authority: 31 U.S.C. 3809.

2. Section 27.2 is amended by removing the definitions of "Authority Head" and "Judicial Officer" and adding the definition of "Environmental Appeals Board" in alphabetical order to read as follows:

§ 27.2 Definitions.

* * * * *

Environmental Appeals Board means the Board within the Agency described in § 1.25 of this title.

* * * * *

3. Section 27.10 is amended by revising paragraphs (h), (i), (j), (k), and (l) to read as follows:

§ 27.10 Default upon failure to file an answer.

* * * * *

(h) The defendant may appeal to the Environmental Appeals Board the decision denying a motion to reopen by filing a notice of appeal within 15 days after the presiding officer denies the section. The timely filing of a notice of appeal shall stay the initial decision the Environmental Appeals Board decides the issue.

(i) If the defendant files a timely notice of appeal, the presiding officer shall forward the record of the proceeding to the Environmental Appeals Board.

(j) The Environmental Appeals Board shall decide expeditiously whether extraordinary circumstances excuse the defendant's failure to file a timely answer based solely on the record before the presiding officer.

(k) If the Environmental Appeals Board decides that extraordinary circumstances excused the defendant's failure to file a timely answer, the Environmental Appeals Board shall remand the case to the presiding officer with instructions to grant the defendant an opportunity to answer.

(l) If the Environmental Appeals Board decides that the defendant's failure to file a timely answer is not excused, the Environmental Appeals Board shall reinstate the initial decision of the presiding officer, which shall become final and binding upon the parties 30 days after the Environmental Appeals Board issues such decision.

4. Section 27.14 is amended by revising paragraphs (a)(2) and (b) to read as follows:

§ 27.14 Separation of functions.

(a) * * *

(2) Participate or advise in the initial decision or the review of the initial decision by the Environmental Appeals Board, except as a witness or representative in public proceedings; or

* * * * *

(b) Neither the presiding officer nor the members of the Environmental Appeals Board shall be responsible to, or subject to, the supervision or direction of the investigating official or the reviewing official.

* * * * *

5. Section 27.16 is amended by revising paragraph (f)(3) to read as follows:

§ 27.16 Disqualification of the reviewing official or presiding officer.

* * * * *

(f) * * *

(3) If the presiding officer denies a motion to disqualify, the Environmental Appeals Board may determine the matter only as part of its review of the initial decision upon appeal, if any.

6. Section 27.31 is amended by revising the first sentence of paragraph (a), the introductory text of paragraph (b) and paragraph (c) to read as follows:

§ 27.31 Determining the amount of penalties and assessments.

(a) In determining an appropriate amount of civil penalties and assessments, the presiding officer and the Environmental Appeals Board, upon

appeal, should evaluate any circumstances that mitigate or aggravate the violation and should articulate in their opinions the reasons that support the penalties and assessments they impose. * * *

(b) Although not exhaustive, the following factors are among those that may influence the presiding officer and the Environmental Appeals Board in determining the amount of penalties and assessments to impose with respect to the misconduct (*i.e.*, the false, fictitious, or fraudulent claims or statements) charged in the complaint:

* * * * *

(c) Nothing in this section shall be construed to limit the presiding officer or the Environmental Appeals Board from considering any other factors that in any given case may mitigate or aggravate the offense for which penalties and assessments are imposed.

7. Section 27.35 is amended by revising paragraph (b) to read as follows:

§ 27.35 The record.

* * * * *

(b) The transcript of testimony, exhibits and other evidence admitted at the hearing, and all papers and requests filed in the proceeding constitute the record for the decision by the presiding officer and the Environmental Appeals Board.

* * * * *

8. Section 27.37 is amended by revising paragraph (d) to read as follows:

§ 27.37 Initial decision.

* * * * *

(d) Unless the initial decision of the presiding officer is timely appealed to the Environmental Appeals Board, or a motion for reconsideration of the initial decision is timely filed, the initial decision shall constitute the final decision of the Environmental Appeals Board and shall be final and binding on the parties 30 days after it is issued by the presiding officer.

9. Section 27.38 is amended by revising paragraphs (f) and (g) to read as follows:

§ 27.38 Reconsideration of initial decision.

* * * * *

(f) If the presiding officer denies a motion for reconsideration, the initial decision shall constitute the final decision of the Environmental Appeals Board and shall be final and binding on the parties 30 days after the presiding officer denies the motion, unless the initial decision is timely appealed to the Environmental Appeals Board in accordance with § 27.39.

(g) If the presiding officer issued a revised initial decision, that decision shall constitute the final decision of the Environmental Appeals Board and shall be final and binding on the parties 30 days after it is issued, unless it is timely appealed to the Environmental Appeals Board in accordance with § 27.39.

10. Section 27.39 is amended by revising paragraphs (a), (b)(3), (c), (f), (h), (i), (j), (k), and (l) to read as follows:

§ 27.39 Appeal to Environmental Appeals Board.

(a) Any defendant who has filed a timely answer and who is determined in an initial decision to be liable for a civil penalty or assessment may appeal such decision to the Environmental Appeals Board by filing a notice of appeal with the hearing clerk in accordance with this section.

(b) * * *

(3) The Environmental Appeals Board may extend the initial 30 day period for an additional 30 days if the defendant files a request for an extension within the initial 30 day period and shows good cause.

(c) If the defendant filed a timely notice of appeal, and the time for filing motions for reconsideration under § 27.38 has expired, the presiding officer shall forward the record of the proceeding to the Environmental Appeals Board.

* * * * *

(f) There is no right to appear personally before the Environmental Appeals Board.

* * * * *

(h) In reviewing the initial decision, the Environmental Appeals Board shall not consider any objection that was not raised before the presiding officer unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the Environmental Appeals Board that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the Environmental Appeals Board shall remand the matter to the presiding officer for consideration of such additional evidence.

(j) The Environmental Appeals Board may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment, determined by the presiding officer in any initial decision.

(k) The Environmental Appeals Board shall promptly serve each party to the appeal with a copy of the decision of the Environmental Appeals Board and a statement describing the right of any person determined to be liable for a civil penalty or assessment to seek judicial review.

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805 after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the Environmental Appeals Board serves the defendant with a copy of the Environmental Appeals Board's decision, a determination that a defendant is liable under § 27.3 is final and is not subject to judicial review.

11. Section 27.40 is revised to read as follows:

§ 27.40 Stay ordered by the Department of Justice.

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the Environmental Appeals Board a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the Environmental Appeals Board shall stay the process immediately. The Environmental Appeals Board may order the process resumed only upon receipt of the written authorization of the Attorney General.

12. Section 27.41 is revised to read as follows:

§ 27.41 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the Environmental Appeals Board.

(b) No administrative stay is available following a final decision of the Environmental Appeals Board.

13. Section 27.42 is revised to read as follows:

§ 27.42 Judicial Review.

Section 3805 of title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the Environmental Appeals Board imposing penalties or assessments under this part and specifies the procedures for such review.

14. Section 27.46 is amended by revising paragraphs (c) and (e) to read as follows:

§ 27.46 Compromise or settlement.

* * * * *

(c) The Environmental Appeals Board has exclusive authority to compromise or settle a case under this part at any time after the date on which the

presiding officer issues an initial decision, except during the pendency of any review under § 27.42 or during the pendency of any action to collect penalties and assessments under § 27.43.

* * * * *

(e) The investigating official may recommend settlement terms to the reviewing official, the Environmental Appeals Board, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the Environmental Appeals Board or the Attorney General, as appropriate.

* * * * *

15. Section 27.48 is revised to read as follows:

§ 27.48 Delegated functions.

The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in appeals filed under this part. An appeal directed to the Administrator, rather than the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or motion filed under this part to the Administrator for decision when the Environmental Appeals Board, in its descretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator. If a case or motion is referred to the Administrator by the Environmental Appeals Board, the Administrator may consult with any EPA employee concerning the matter, provided such consultation does not violate the ex parte contacts restrictions set forth in §§ 27.14 and 27.15 of this part.

PART 57—PRIMARY NONFERROUS SMELTER ORDERS

1. The authority citation for part 57 continues to read as follows:

Authority: 31 U.S.C. 3809.

§ 57.103 [Amended]

2. Section 57.103 is amended by removing paragraph (p) and redesignating paragraphs (q) through (x) as new paragraphs (p) through (w).

3. Section 57.806 is amended by revising paragraph (a)(2) to read as follows:

§ 57.806 Presiding Officer.

(a) * * *

(2) If the parties to the hearing waive their right to have the Agency or an Administrative Law Judge preside at the hearing, the Administrator shall appoint an EPA employee who is an attorney to serve as presiding officer.

* * * * *

4. Section 57.809 is amended by revising the first sentence of paragraph (c)(2) to read as follows:

§ 57.809 Ex parte communications.

* * * * *

(c) * * *

(2) *Decisional body* means any Agency employee who is or may be reasonably expected to be involved in the decisional process of the proceeding including the Administrator, Presiding Officer, the Regional Administrator (if he does not designate himself as a member of the Agency trial staff), and any of their staff participating in the decisional process. * * *

* * * * *

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601.

2. Section 60.539 is amended by revising the third sentence of paragraph (h)(1); paragraph (h)(2); and the last sentence of paragraph (h)(3) to read as follows:

§ 60.539 Hearing and appeal procedures.

* * * * *

(h)(1) * * * The initial decision shall become the decision of the Environmental Appeals Board without further proceedings unless there is an appeal to the Environmental Appeals Board or motion for review by the Environmental Appeals Board. * * *

(2) The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in appeals filed under this section. An appeal directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this part to the Administrator for decision when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this section referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator. On appeal from or review of the initial decision, the Environmental Appeals Board shall have all the powers that it would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Environmental Appeals Board shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

(3) * * * Any appeal to the Environmental Appeals Board shall be taken within 10 days of the initial decision, and the Environmental Appeals Board shall render its decision in the appeal within 30 days of the filing of the appeal.

PART 66—ASSESSMENT AND COLLECTION OF NONCOMPLIANCE PENALTIES BY EPA

1. The authority citation for part 66 continues to read as follows:

Authority: Sec. 120, Clean Air Act, as amended, 42 U.S.C. 7420.

2. Section 66.3 is amended by redesignating paragraphs (g) through (l) as paragraphs (h) through (m) and adding a new paragraph (g) to read as follows:

§ 66.3 Definitions.

* * * * *

(g) "Environmental Appeals Board" shall mean the Board within the Agency described in § 1.25 of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in appeals filed under this part. Appeals directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this part to the Administrator for decision when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

3. Section 66.6 is amended by revising paragraph (b) to read as follows:

§ 66.6 Effect of litigation; time limits.

* * * * *

(b) Failure of the Environmental Appeals Board or the Presiding Officer at a hearing to meet any of the time limits contained in this part 66 and part 67 of this chapter shall not affect the validity of any proceeding under these regulations.

* * * * *

4. Section 66.72 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 66.72 Additional payment or reimbursement.

(a) Within 120 days after the source owner or operator receives notification pursuant to § 66.71(b) that it has achieved and is maintaining compliance with applicable legal requirements, or within 120 days after receipt of a decision to that effect upon petition and hearing, or within 120 days after receipt of a decision to that effect upon an appeal to the Environmental Appeals Board, the source owner or operator shall submit to the Administrator a revised penalty calculation as provided in the Technical Support Document and the Manual, together with data necessary for verification. * * *

* * * * *

5. Section 66.81 is amended by revising the second and third sentences of paragraph (b) and paragraph (c) to read as follows:

§ 66.81 Final action.

* * * * *

(b) * * * To exhaust administrative remedies, a source owner or operator must first petition for reconsideration of the decision in question and, if unsuccessful after hearing or after denial of hearing, appeal the decision in question to the Environmental Appeals Board. The action becomes final upon the completion of review by the Environmental Appeals Board and notice thereof to the owner or operator of the source.

(c) Where a petition seeks reconsideration both of the finding of noncompliance and of the finding of liability on the ground that the source owner or operator is entitled to an exemption, both questions must be decided before any review by the Environmental Appeals Board is sought, except on agreement of the parties.

6. Section 66.95 is amended by revising the first and second sentences of paragraph (c) to read as follows:

§ 66.95 Decision of the Presiding Officer, Appeal to the Environmental Appeals Board.

* * * * *

(c) An appeal to the Environmental Appeals Board from a decision of the Presiding Officer shall be made by petition filed within twenty (20) days from receipt by a party of the Presiding Officer's decision. The Environmental Appeals Board shall rule on the appeal within 30 days of receipt of a petition.

* * *

PART 85—CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES AND MOTOR VEHICLE ENGINES

1. The authority citation for subpart S of part 85 continues to read as follows:

Authority: Sec. 301(a), Clean Air Act, 81 Stat. 504, as amended by sec. 15(c), 84 Stat. 1713 (42 U.S.C. 1857g(a)). The regulations implement sec. 207(c)(1)–(2), Clean Air Act, 84 Stat. 1697 (42 U.S.C. 1847f–5a(c)(1)–(2)); sec. 208(a), Clean Air Act, 81 Stat. 501, as renumbered by sec. 8(a), 84 Stat. 1694 (42 U.S.C. 1857f–6(a)).

2. Section 85.1807 is amended by revising paragraphs (a)(6) and (o)(2), the second and third sentences of paragraph (o)(3), paragraphs (q)(1), (q)(4), (q)(5), (t)(1), (t)(2), (u)(1), (u)(3)(iv), (u)(4), (u)(5), (v)(1), (v)(2), (w)(1), (w)(2), and (w)(3), the first, second, and fourth sentences of paragraph (x), paragraphs (z)(1) and (z)(2), and the second sentence of paragraph (aa)(1) to read as follows:

§ 85.1807 Public hearings.

(a) * * *

(6) "Environmental Appeals Board" shall mean the Board within the Agency described in § 1.25 of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in appeals filed under this subpart. Appeals directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this subpart to the Administrator for decision when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

* * * * *

(o) * * *

(2) Within ten days after service of any motion filed pursuant to this section, or within such other time as may be fixed by the Environmental Appeals Board or the Presiding Officer, as appropriate, any party may serve and file an answer to the motion. The movant shall, if requested by the Environmental Appeals Board or the Presiding Officer, as appropriate, serve and file reply papers within the time set by the request.

(3) * * * The Environmental Appeals Board shall rule upon all motions filed prior to the appointment of a Presiding Officer and all motions filed after the filing of the decision of the Presiding Officer or accelerated decision. Oral argument of motions will be permitted only if the Presiding Officer or the Environmental Appeals Board, as appropriate, deems it necessary.

* * * * *

(q) *Interlocutory appeal.* (1) An interlocutory appeal may be taken to the Environmental Appeals Board either (i) with the consent of the Presiding Officer and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense or prejudice to any party or substantial detriment to the public interest, or (ii) absent the consent of the Presiding Officer, by permission of the Environmental Appeals Board.

* * * * *

(4) Applications to file such appeals absent consent of the Presiding Officer shall be filed with the Environmental Appeals Board within 5 days of the denial of any appeal by the Presiding Officer.

(5) The Environmental Appeals Board will consider the merits of the appeal on the application and any answers thereto. No oral argument will be heard nor other briefs filed unless the Environmental Appeals Board directs otherwise.

* * * * *

(t) * * * (1) Unless extended by the Environmental Appeals Board, the Presiding Officer shall issue and file with the Hearing Clerk his decision within 30 days after the period for filing proposed findings as provided for in paragraph (s) of this section has expired.

(2) The Presiding Officer's decision shall become the opinion of the Environmental Appeals Board (i) when no notice of intention to appeal as described in paragraph (u) of this section is filed, 30 days after the issuance thereof, unless in the interim the Environmental Appeals Board shall have taken action to review or stay the effective date of the decision; or (ii) when a notice of intention to appeal is filed but the appeal is not perfected as required by paragraph (u) of this section, 5 days after the period allowed for perfection of an appeal has expired unless within that 5 day period, the

Environmental Appeals Board shall have taken action to review or stay the effective date of the decision.

* * * * *

(u) * * * (1) Any party to a proceeding may appeal the Presiding Officer's decision to the Environmental Appeals Board, *Provided*, That within 10 days after issuance of the Presiding Officer's decision such party files a notice of intention to appeal and an appeal brief within 30 days of such decision.

* * * * *

(3) * * * Any brief filed pursuant to this paragraph shall contain in the order indicated, the following:

* * * * *

(iv) A proposed form of rule or order for the Environmental Appeals Board's consideration if different from the rule or order contained in the Presiding Officer's decision.

(4) No brief in excess of 40 pages shall be filed without leave of the Environmental Appeals Board.

(5) Oral argument will be allowed in the discretion of the Environmental Appeals Board.

(v) * * * (1) If, after the expiration of the period for taking an appeal as provided for by paragraph (u) of this section, no notice of intention to appeal the decision of the Presiding Officer has been filed, or if filed, not perfected, the Hearing Clerk shall so notify the Environmental Appeals Board.

(2) The Environmental Appeals Board, upon receipt of notice from the Hearing Clerk that no notice of intention to appeal has been filed, or if filed, not perfected pursuant to paragraph (u) of this section, may, on its own motion, within the time limits specified in paragraph (t)(2) of this section, review the decision of the Presiding Officer. Notice of the intention of the Environmental Appeals Board to review the decision of the Presiding Officer shall be given to all parties and shall set forth the scope of such review and the issue which shall be considered and shall make provision for filing of briefs.

(w) * * * (1) Upon appeal from or review of the Presiding Officer's decision, the Environmental Appeals Board shall consider such parts of the record as are cited or as may be necessary to resolve the issues presented and, in addition shall to the extent necessary or desirable exercise all the powers which it could have exercised if it had presided at the hearing.

(2) In rendering its decision, the Environmental Appeals Board shall adopt, modify, or set aside the findings, conclusions, and rule or order contained in the decision of the Presiding Officer and shall set forth in its decision a statement of the reasons or bases for its action.

(3) In those cases where the Environmental Appeals Board determines that it should have further information or additional views of the parties as to the form and content of the rule or order to be issued, the Environmental Appeals Board, in its discretion, may withhold final action pending the receipt of such additional information or views, or may remand the case to the Presiding Officer.

(x) * * * Within twenty (20) days after issuance of the Environmental Appeals Board's decision, any party may file with the Environmental Appeals Board a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Any petition filed under this subsection must be confined to new questions raised by the decision or the final order and upon which the petitioner had no opportunity to argue before the Presiding Officer or the Environmental Appeals Board. * * * The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order or to toll the running of any statutory time period affecting such decision or order unless specifically so ordered by the Environmental Appeals Board.

* * * * *

(z) * * * (1) If, after the expiration of the period for taking an appeal as provided for by paragraph (u) of this section, no appeal has been taken from the Presiding Officer's decision, and, after the expiration of the period for review by the Environmental Appeals Board on its own motion as provided for by paragraph (v) of this section, the Environmental Appeals Board does not move to review such decision, the hearing will be deemed to have ended at the expiration of all periods allowed for such appeal and review.

(2) If an appeal of the Presiding Officer's decision is taken pursuant to paragraph (u) of this section, or if, in the absence of such appeal, the Environmental Appeals Board moves to review the decision of the Presiding Officer pursuant to paragraph (v) of this section, the hearing will be deemed to have ended upon the rendering of a final decision by the Environmental Appeals Board.

(aa) * * * (1) * * * Such officer shall be responsible for filing in the court the record on which the order of the Environmental Appeals Board is based.

* * * * *

2. Section 85.1808 is amended by revising paragraph (d) to read as follows:

§ 85.1808 Treatment of confidential information.

* * * * *

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Environmental Appeals Board only to the extent and by means of the procedures set forth in part 2, subpart B, of this chapter.

* * * * *

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES; CERTIFICATION AND TEST PROCEDURES

1. The authority citation for part 86 continues to read as follows:

Authority: Secs. 202, 203, 206, 207, 208, 215, 301(a), of the Clean Air Act as amended; (42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7549, 7550 and 7601(a)).

2. Section 86.614–84 is amended by revising paragraphs (b)(5) and (o)(2), the second and third sentences of paragraph (o)(3), paragraphs (s)(1), (s)(2), (t)(1), (t)(3)(iv), (t)(4), (t)(5), (u)(2), (u)(5), (v)(1), (v)(2), (w)(1), (w)(2), (w)(3), (w)(4), the first, second, and fourth sentences of paragraph (x), paragraphs (z)(1) and (z)(2), and the second sentence of paragraph (aa)(1) to read as follows:

§ 86.614–84 Hearings on suspensions, revocation, and voiding of certificates of conformity.

* * * * *

(b) * * *

(5) "Environmental Appeals Board" shall mean the Board within the Agency described in section 1.25 of this title. The Administrator delegates to the Environmental Appeals Board authority to issue final decisions in appeals filed under this subpart. Appeals directed by the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this subpart to the Administrator for decision when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals

Board shall be interpreted as referring to the Administrator.

(o) * * *

(2) Within such time as may be fixed by the Environmental Appeals Board or the Presiding Officer, as appropriate, any party may serve and file an answer to the motion. The movant shall, if requested by the Environmental Appeals Board or the Presiding Officer, as appropriate, serve and file reply papers within the time set by the request.

(3) * * * The Environmental Appeals Board shall rule upon all motions filed prior to the appointment of a Presiding Officer and all motions filed after the filing of the decision of the Presiding Officer or accelerated decision. Oral argument of motions will be permitted only if the Presiding Officer or the Environmental Appeals Board, as appropriate, deems it necessary.

* * * * *

(s) * * * (1) Unless extended by the Environmental Appeals Board, the Presiding Officer shall issue and file with the Hearing Clerk his decision within 14 days (or within 7 days in the case of a hearing requested under § 86.612(i)) after the period for filing proposed findings as provided for in paragraph (r) of this section has expired.

(2) The Presiding Officer's decision shall become the decision of the Environmental Appeals Board (i) when no notice of intention to appeal as described in paragraphs (t) and (u) of this section is filed, 10 days after issuance thereof, unless in the interim the Environmental Appeals Board shall have taken action to review or stay the effective date of the decision; or (ii), when a notice of intention to appeal is filed but the appeal is not perfected as required by paragraphs (t) or (u) of this section, 5 days after the period allowed for perfection of an appeal has expired unless within that 5 day period, the Environmental Appeals Board shall have taken action to review or stay the effective date of the decision.

* * * * *

(t) * * * (1) Any party to a proceeding may appeal the Presiding Officer's decision to the Environmental Appeals Board, *Provided*, That within 10 days after issuance of the Presiding Officer's decision such party files a notice of intention to appeal and an appeal brief within 20 days of such decision.

* * * * *

(3) * * *

(iv) A proposed order for the Environmental Appeals Board's consideration if different from the order contained in the Presiding Officer's decision.

(4) No brief in excess of 40 pages shall be filed without leave of the Environmental Appeals Board.

(5) Oral argument shall be allowed only in the discretion of the Environmental Appeals Board.

(u) * * *

(2) Any party to the proceeding may appeal the Presiding Officer's decision to the Environmental Appeals Board by filing a notice of appeal within 10 days.

* * * * *

(5) No brief in excess of 15 pages shall be filed without leave of the Environmental Appeals Board.

(v) * * * (1) If after the expiration of the period for taking an appeal as provided for by paragraph (t) or (u) of this section no notice of intention to appeal the decision of the Presiding Officer has been filed, or if filed, not perfected, the Hearing Clerk shall so notify the Environmental Appeals Board.

(2) The Environmental Appeals Board, upon receipt of notice from the Hearing Clerk that no notice of intention to appeal the decision of the Presiding Officer has been filed, or if filed, not perfected pursuant to paragraph (t) or (u) of this section, may, on its own motion, within the time limits specified in paragraph (s)(2) of this section, review the decision of the Presiding Officer. Notice of the intention of the Environmental Appeals Board to review the decision of the Presiding Officer shall be given to all parties and shall set forth the scope of such review and the issues which shall be considered and shall make provision for filing of briefs.

(w) * * * (1) Upon appeal from or review of the Presiding Officer's decision, the Environmental Appeals Board shall consider such parts of the record as are cited or as may be necessary to resolve the issues presented and in addition shall, to the extent necessary or desirable, exercise all the powers which it could have exercised if it had presided at the hearing.

(2) In rendering its decision, the Environmental Appeals Board shall adopt, modify or set aside the findings, conclusions, and order contained in the decision of the Presiding Officer and shall set forth in its decision a statement of the reasons or bases for its action.

(3) In those cases where the Environmental Appeals Board determines that it should further information or additional views of the parties as to the form and content of the rule or order to be issued, the Environmental Appeals Board, in its discretion, may withhold final action pending the receipt of such additional information or views, or may remand the case to the Presiding Officer.

(4) Any decision rendered under this paragraph which completes disposition of a case shall be a final decision of the Environmental Appeals Board.

(x) * * * Within twenty (20) days after issuance of the Environmental Appeals Board's decision, any party may file with the Environmental Appeals Board a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Any petition filed under this subsection must be confined to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before the Presiding Officer or the Environmental Appeals Board; *Provided, however*, That in the case of a hearing requested under § 86.612(i) such new questions shall be limited to the issues specified in paragraph (c)(2)(ii) of this section. * * * The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order or to toll the running of any statutory time period affecting such decision or order unless specifically so ordered by the Environmental Appeals Board.

* * * * *

(z) * * * (1) If, after the expiration of the period for taking an appeal as provided for by paragraph (t) and (u) of this section, no appeal has been taken from the Presiding Officer's decision, and after the expiration of the period for review by the Environmental Appeals Board on its own motion as provided for by paragraph (v) of this section, the Environmental Appeals Board does not move to review such decision, the hearing will be deemed to have ended at the expiration of all periods allowed for such appeal and review.

(2) If an appeal of the Presiding Officer's decision is taken pursuant to paragraphs (t) and (u) of this section, or if, in the absence of such appeal, the Environmental Appeals Board moves to review the decision of the Presiding Officer pursuant to paragraph (v) of this section, the hearing will be deemed to have ended upon rendering of a final decision by the Environmental Appeals Board.

(aa) * * * (1) * * * Such officer shall be responsible for filing in the court the record on which the order of the Environmental Appeals Board is based.

* * * * *

3. Section 86.615–84 is amended by revising paragraph (d) to read as follows:

§ 86.615–84 Treatment of confidential information.

* * * * *

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Environmental Appeals Board only to the extent and by means of the procedures set forth in part 2, subpart B, of this chapter.

* * * *

4. Section 86.1014–84 is amended by revising paragraphs (b)(5) and (o)(2), the second and third sentences of paragraph (o)(3), paragraphs (s)(1), (s)(2), (s)(2)(i), (s)(2)(ii), (t)(1), (t)(3)(iv), (t)(4), (t)(5), (u)(2), (u)(5), (v)(1), (v)(2), (w)(1), (w)(2), (w)(3), (w)(4), and (x)(1), the second sentence of paragraph (x)(2), paragraphs (z)(1) and (z)(2), and the second sentence of (aa)(1) to read as follows:

§ 86.1014–84 Hearings on suspension, revocation and voiding of certificate of conformity.

* * * * *

(b) * * *

(5) *Environmental Appeals Board* shall mean the Board within the Agency described in § 1.25 of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in appeals filed under this subpart. Appeals directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this subpart to the Administrator for decision when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

* * * * *

(o) * * *

(2) Within the time fixed by the Environmental Appeals Board or the Presiding Officer, as appropriate, any party may serve and file an answer to the motion. The movant shall, if requested by the Environmental Appeals Board or the Presiding Officer, as appropriate, serve and file reply papers within the time set by the request.

(3) * * * The Environmental Appeals Board shall rule upon all motions filed prior to the appointment of a Presiding Officer and all motions filed after the filing of the decision of the Presiding Officer or accelerated decision. Oral argument of motions will be permitted only if the Presiding Officer or the Environmental Appeals Board, as appropriate, considers it necessary.

* * * * *

(s) * * * (1) Unless extended by the Environmental Appeals Board, the Presiding Officer shall issue and file with the Hearing Clerk his decision within fourteen (14) days (or within seven (7) days in the case of a hearing requested under § 86.1012–84(1)) after the period for filing proposed findings as provided for in paragraph (r) of this section has expired.

(2) The Presiding Officer's decision shall become the decision of the Environmental Appeals Board:

(i) When no notice of intention to appeal as described in paragraphs (t) and (u) of this section is filed, ten (10) days after issuance thereof, unless in the interim the Environmental Appeals Board shall have acted to review or stay the effective date of the decision; or

(ii) When a notice of intention to appeal is filed but the appeal is not perfected as required by paragraphs (t) or (u) of this section, five (5) days after the period allowed for perfection of an appeal has expired unless within that five (5) day period, the Environmental Appeals Board shall have acted to review or stay the effective date of the decision.

* * * * *

(t) * * * (1) Any party to a proceeding may appeal the Presiding Officer's decision to the Environmental Appeals Board; *Provided,* That within ten (10) days after issuance of the Presiding Officer's decision the party files a notice of intention to appeal and an appeal brief within twenty (20) days of the decision.

* * * * *

(3) * * *

(iv) A proposed order for the Environmental Appeals Board's consideration if different from the order contained in the Presiding Officer's decision.

(4) No brief in excess of 40 pages will be filed without leave of the Environmental Appeals Board.

(5) The Environmental Appeals Board may allow oral argument.

(u) * * *

(2) Any party to the proceeding may appeal the Presiding Officer's decision to the Environmental Appeals Board by filing a notice of appeal within ten (10) days.

* * * * *

(5) No brief in excess of fifteen (15) pages will be filed without leave of the Environmental Appeals Board.

(v) * * * (1) If after the expiration of the period for taking an appeal as provided for by paragraph (t) or (u) of this section, no notice of intention to appeal the decision of the Presiding Officer has been filed, or if filed, not perfected, the Hearing Clerk shall so notify the Environmental Appeals Board.

(2) The Environmental Appeals Board, upon receipt of notice from the Hearing Clerk that no notice of intention to appeal the decision of the Presiding Officer has been filed, or if filed, not perfected pursuant to paragraph (t) or (u) of this section, may, on its own motion, within the time limits specified in paragraph (s)(2) of this section, review the decision of the Presiding Officer. Notice of the intention of the Environmental Appeals Board to review the decision of the Presiding Officer shall be given to all parties and shall set forth the scope of such review and the issues to be considered and shall make provision for filing of briefs.

(w) * * * (1) Upon appeal from or review of the Presiding Officer's decision, the Environmental Appeals Board shall consider such parts of the record as are cited or as may be necessary to resolve the issues presented and in addition shall, to the extent necessary or desirable, exercise all the powers which it could have exercised if it had presided at the hearing.

(2) In rendering its decision, the Environmental Appeals Board shall adopt, modify or set aside the findings, conclusions, and order contained in the decision of the Presiding Officer and shall set forth in its decision a statement of the reasons or basis for its action.

(3) In those cases where the Environmental Appeals Board determines that it should have further information or additional views of the parties as to the form and content of the rule or order to be issued, the Environmental Appeals Board, in its discretion, may withhold final action pending the receipt of such additional information or views, or may remand the case to the Presiding Officer.

(4) Any decision rendered under this paragraph which completes disposition of a case constitutes a final decision of the Environmental Appeals Board.

(x) * * * (1) Within twenty (20) days after issuance of the Environmental Appeals Board's decision, any party may file with the Environmental Appeals Board a petition for reconsideration of such decision, setting

forth the relief desired and the grounds in support thereof. Any petition filed under this subsection must be confined to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before the Presiding Officer or the Environmental Appeals Board: *Provided, however,* That in the case of a hearing requested under § 86.1012–84(1) such new questions shall be limited to the issues specified in paragraph (c)(2)(ii) of this section.

(2) * * * The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order or to toll the running of any statutory time period affecting such decision or order unless specifically so ordered by the Environmental Appeals Board.

* * * * *

(z) * * * (1) If, after the expiration of the period for taking an appeal as provided for by paragraphs (t) and (u) of this section, no appeal has been taken from the Presiding Officer's decision, and after the expiration of the period for review by the Environmental Appeals Board on its own motion as provided for by paragraph (v) of this section, the Environmental Appeals Board does not move to review such decision, the hearing is considered ended at the expiration of all periods allowed for the appeal and review.

(2) If an appeal of the Presiding Officer's decision is taken pursuant to paragraphs (t) and (u) of this section, or if, in the absence of this appeal, the Environmental Appeals Board moves to review the decision of the Presiding Officer pursuant to paragraph (v) of this section, the hearing is considered ended upon rendering of a final decision by the Environmental Appeals Board.

(aa) * * * (1) * * * This officer shall be responsible for filing in the court the record of which the order of the Environmental Appeals Board is based.

* * * * *

(5) Section 86.1015–84 is amended by revising paragraph (d) to read as follows:

§ 86.1015–84 Treatment of confidential information.

* * * * *

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Environmental Appeals Board only to the extent and by means of the procedures set forth in part 2, subpart B, of this chapter.

* * * * *

6. Section 86.1115–87 is amended by revising paragraphs (b)(5) and (o)(2), the second sentence of (o)(3), paragraphs (s)(1), (s)(2), (t)(1), (t)(3)(iv), (t)(4), (t)(5), (u)(1), (u)(2), (v)(1), (v)(2), (v)(3), and (v)(4), the first, second, third, and fifth sentences of paragraph (w), paragraphs (y)(1) and (y)(2), and the second sentence of paragraph (z)(1) to read as follows:

§ 86.1115–87 Hearing procedures for nonconformance determinations and penalties.

* * * * *

(b) * * *

(5) *Environmental Appeals Board* shall mean the Board within the Agency described in § 1.25 of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in appeals filed under this subpart. Appeals directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this subpart to the Administrator for decision when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

* * * * *

(o) * * *

(2) Within such time as may be fixed by the Environmental Appeals Board or the Presiding Officer, as appropriate, any party may serve and file an answer to the motion. The movant shall, if requested by the Environmental Appeals Board or the Presiding Officer, as appropriate, serve and file reply papers, within the time set by the request.

(3) * * * The Environmental Appeals Board shall rule upon all motions filed prior to the appointment of a Presiding Officer and all motions filed after the filing of the decision of the Presiding Officer or accelerated decision. Oral argument of motions will be permitted only if the Presiding Officer or the Environmental Appeals Board, as appropriate, deems it necessary.

* * * * *

(s) * * * (1) Unless extended by the Environmental Appeals Board, the Presiding Officer shall issue and file with the Hearing Clerk his decision within 30 days after the period for filing proposed findings has expired, as provided for in paragraph (c) of this section.

(2) The Presiding Officer's decision shall become the decision of the Environmental Appeals Board (i) 10 days after issuance thereof, if no notice of intention to appeal as described in paragraph (t) of this section is filed, unless in the interim the Environmental Appeals Board shall have taken action to review or stay the effective date of the decision; or (ii) 5 days after expiration of the period allowed by paragraph (t)(1) of this section for perfection of an appeal, if a notice of intention to appeal is filed but the appeal is not perfected, unless within that 5 day period the Environmental Appeals Board shall have taken action to review or stay the effective date of the decision;

* * * * *

(t) * * * (1) Any party to a proceeding may appeal the Presiding Officer's decision to the Environmental Appeals Board, *Provided,* That within 10 days after issuance of the Presiding Officer's decision such party files a notice of intention to appeal and an appeal brief within 20 days of such decision.

* * * * *

(3) * * *

(iv) A proposed order for the Environmental Appeals Board's consideration if different from the order contained in the Presiding Officer's decision.

(4) No brief in excess of 15 pages shall be filed without leave of the Environmental Appeals Board.

(5) Oral argument will be allowed only in the discretion of the Environmental Appeals Board.

(u) * * * (1) If, after the expiration of the period for taking an appeal as provided for by paragraph (t) of this section, no notice of intention to appeal the decision of the Presiding Officer has been filed, or if filed, not perfected, the Hearing Clerk shall so notify the Environmental Appeals Board.

(2) The Environmental Appeals Board, upon receipt of notice from the Hearing Clerk that no notice of intention to appeal has been filed, or if filed, not perfected pursuant to paragraph (t)(1) of this section, may, on its own motion, within 14 days after notice from the Hearing Clerk, review the decision of the Presiding Officer. Notice of the intention of the Environmental Appeals Board to review the decision of the

Presiding Officer shall be given to all parties and shall set forth the scope of such review and the issues which shall be considered and shall make provisions for filing of briefs.

(v) * * * (1) Upon appeal from or review of the Presiding Officer's the Environmental Appeals Board shall consider such parts of the record as are cited or as may be necessary to resolve the issues presented and in addition shall, to the extent necessary or desirable, exercise all the powers which it could have exercised if it had presided at the hearing.

(2) In rendering its decision, the Environmental Appeals Board shall adopt, modify, or set aside the findings, conclusions, and order contained in the decision of the Presiding Officer and shall set forth in its decision a statement of the reasons or bases for this action.

(3) In those cases where the Environmental Appeals Board determines that it should have further information or additional views of the parties as to the form and content of the rule or order to be issued, the Environmental Appeals Board, in its discretion, may without final action pending the receipt of such additional information or views, or may remand the case to the Presiding Officer.

(4) Any decision rendered under this paragraph which completed disposition of a case shall be a final decision of the Environmental Appeals Board.

(w) * * * Any party may file with the Environmental Appeals Board a petition for reconsideration of such decision setting forth the relief desired and the grounds in support thereof. This petition must be filed within 20 days of the issuance of the Environmental Appeals Board's decision, and must be confined to new questions raised by the decision or final order and which the petitioner had no opportunity to argue before the Presiding Officer or the Environmental Appeals Board, unless otherwise specified by the Environmental Appeals Board. Subsequent to the expiration of the period for petitioning for reconsideration, the Environmental Appeals Board may, in its discretion and for good cause shown, grant the manufacturer a hearing to contest the compliance level or the penalty calculation even though such issues may have been raised in the previous proceeding. * * * The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order or to toll the running of any statutory time period affecting such decision or order unless specifically so ordered by the Environmental Appeals Board.

* * * * *

(y) * * * (1) If, after the expiration of the period for taking an appeal as provided by paragraph (t) of this section, no appeal has been taken from the Presiding Officer's decision, and after the expiration of the period for review by the Environmental Appeals Board on its own motion as provided for by paragraph (u) of this section, the Environmental Appeals Board does not move to review such decision, the hearing will be deemed to have ended at the expiration of all periods allowed for such appeal and review.

(2) If an appeal of the Presiding Officer's decision is taken pursuant to paragraph (t) of this section, or if, in the absence of such appeal the Environmental Appeals Board moves to review the decision of the Presiding Officer pursuant to paragraph (u) of this section, the hearing will be deemed to have ended upon issuance of a final decision by the Environmental Appeals Board.

(z) * * * (1) * * * Such officer shall be responsible for filing in the court the record on which the order of the Environmental Appeals Board is based.

* * * * *

7. Section 86.1116–87 is amended by revising paragraph (d) to read as follows:

§ 86.1116–87 Treatment of confidential information.

* * * * *

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Environmental Appeals Board only to the extent and by means of the procedures set forth in part 2, subpart B, of this chapter.

* * * * *

PART 114—CIVIL PENALTIES FOR VIOLATION OF OIL POLLUTION PREVENTION REGULATIONS

1. The authority citation for part 114 continues to read as follows:

Authority: Secs. 311(j), 501(a), Pub. L. 92–500, 86 Stat. 868, 885 (33 U.S.C. 1321(j), 1361(a)).

2. Section 114.10 is amended by revising the last sentence to read as follows:

§ 114.10 Decision.

* * * The decision of the Presiding Officer shall become the final decision of the Environmental Protection Agency unless within fifteen (15) days from the date of receipt of such decision, the person assessed the penalty appeals the decision to the Environmental Appeals Board, or unless the Environmental Appeals Board shall have stayed the effectiveness of the decision pending review.

3. Section 114.11 is amended by removing paragraph (c), redesignating paragraph (b) as new paragraph (c), redesignating paragraph (a) as new paragraph (b), adding a new paragraph (a), revising newly redesignated paragraphs (b) and (c)(4) and paragraph (d) to read as follows:

§ 114.11 Appeal to the Environmental Appeals Board.

(a) The Administrator delegates authority to the Environmental Appeals Board (which is described in § 1.25 of this title) to issue final decisions in appeals filed under this part. An appeal directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this part to the Administrator when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

(b) The person assessed a penalty in the Presiding Officer's determination shall have the right to appeal an adverse decision to the Environmental Appeals Board upon filing a written Notice of Appeal in the form required by paragraph (c) of this section within fifteen (15) days of the date of the receipt of the Presiding Officer's decision.

(c) * * *

(4) Contain a concise statement setting forth the action which the person proposes that the Environmental Appeals Board take.

(d) The Environmental Appeals Board, after a Notice of Appeal in proper form has been filed, shall render a decision with respect to the appeal promptly. In rendering its decision, the Environmental Appeals Board may adopt, modify, or set aside the decision of the Presiding Officer in any respect and shall include in its decision a concise statement of the basis therefor. The decision of the Environmental Appeals Board on appeal shall be effective when rendered.

PART 123—STATE PROGRAM REQUIREMENTS

1. The authority citation for part 123 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 123.64 is amended by revising paragraph (b)(3)(ii)(B) to read as follows:

§ 123.64 Procedures for withdrawal of State programs.

* * * * *

(b) * * *

(3)(ii) * * *

(B) *Ex parte discussion of proceedings.* At no time after the issuance of the order commencing proceedings shall the Administrator, the Regional Administrator, the Regional Judicial Officer, the Presiding Officer, or any other person who is likely to advise these officials in the decision on the case, discuss ex parte the merits of the proceeding with any interested person outside the Agency, with any Agency staff member who performs a prosecutorial or investigative function in such proceeding or a factually related proceeding, or with any representative of such person. Any ex parte memorandum or other communication addressed to the Administrator, the Regional Administrator, the Regional Judicial Officer, or the Presiding Officer during the pendency of the proceeding and relating to the merits thereof, by or on behalf of any party, shall be regarded as argument made in the proceeding and shall be served upon all other parties. The other parties shall be given an opportunity to reply to such memorandum or communication.

* * * * *

PART 124—PROCEDURES FOR DECISIONMAKING

1. The authority citation for part 124 continues to read as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*; Safe Drinking Water Act, 42 U.S.C. 300(f) *et seq.*; Clean Water Act, 33 U.S.C. 1251 *et seq.*; and Clean Air Act, 42 U.S.C. 1857 *et seq.*

2. Section 124.2 is amended by adding a definition of "Environmental Appeals Board" in alphabetical order to read as follows:

§ 124.2 Definitions.

* * * * *

Environmental Appeals Board shall mean the Board within the Agency described in § 1.25(e) of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in RCRA, PSD, or UIC permit appeals filed under this subpart. An appeal directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation does not preclude the Environmental Appeals Board from referring an appeal or a motion under this subpart to the Administrator when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator by the Environmental Appeals Board, all parties shall be so notified and the rules in this subpart referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

* * * * *

3. Section 124.19 is amended by revising the first sentence of the paragraph (a) introductory text, paragraphs (a)(2) and (b), the first and third sentences of paragraph (c), the paragraph (d) introductory text, paragraphs (e) and (f)(1) (i), (ii) and (iii) and by adding paragraph (g) to read as follows:

§ 124.19 Appeal of RCRA, UIC, and PSD permits.

(a) Within 30 days after a RCRA, UIC, or PSD final permit decision (or a decision under § 270.29 to deny a permit for the active life of a RCRA hazardous waste management facility or unit) has been issued under § 124.15, any person who filed comments on that draft permit or participated in the public hearing may petition the Environmental Appeals Board to review any condition of the permit decision. * * *

* * * * *

(2) An exercise of discretion or an important policy consideration which the Environmental Appeals Board should, in its discretion, review.

(b) The Environmental Appeals Board may also decide on its initiative to review any condition of any RCRA, UIC, or PSD permit issued under this part. The Environmental Appeals Board must act under this paragraph within 30 days of the service date of notice of the Regional Administrator's action.

(c) Within a reasonable time following the filing of the petition for review, the Environmental Appeals Board shall issue an order granting or denying the petition for review. * * * Public notice of any grant of review by the Environmental Appeals Board under paragraph (a) or (b) of this section shall be given as provided in § 124.10. * * *

(d) The Environmental Appeals Board may defer consideration of an appeal of a RCRA or UIC permit under this section until the completion of formal proceedings under subpart E or F relating to an NPDES permit issued to the same facility or activity upon concluding that:

* * * * *

(e) A petition to the Environmental Appeals Board under paragraph (a) of this section is, under 5 U.S.C. 704, a prerequisite to the seeking of judicial review of the final agency action.

(f)(1) * * *

(i) When the Environmental Appeals Board issues notice to the parties that review has been denied;

(ii) When the Environmental Appeals Board issues a decision on the merits of the appeal and the decision does not include a remand of the proceedings; or

(iii) Upon the completion of remand proceedings if the proceedings are remanded, unless the Environmental Appeals Board's remand order specifically provides that appeal of the remand decision will be required to exhaust administrative remedies.

* * * * *

(g) Motions to reconsider a final order shall be filed within ten (10) days after service of the final order. Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration under this provision shall be directed to, and decided by, the Environmental Appeals Board. Motions for reconsideration directed to the administrator, rather than to the Environmental Appeals Board, will not be considered, except in cases that the Environmental Appeals Board has referred to the Administrator pursuant to § 124.2 and in which the Administrator has issued the final order. A motion for reconsideration shall not stay the effective date of the final order unless specifically so ordered by the Environmental Appeals Board.

4. Section 124.72 is amended by removing the definition of "Judicial Officer" and by adding the definition of "Environmental Appeals Board" in alphabetical order to read as follows:

§ 124.72 Definitions.

* * * * *

Environmental Appeals Board shall mean the Board within the Agency described in § 1.25 of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in NPDES appeals filed under this subpart. An appeal directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation does not preclude the Environmental Appeals Board from referring an appeal or a motion to the Administrator when the

Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator by the Environmental Appeals Board, all parties shall be so notified and the rules in this subpart referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

5. Section 124.74 is amended by revising the third and fourth sentences of the explanatory note at the end of paragraph (b)(1) to read as follows:

§ 124.74 Request for evidentiary hearing.

* * * * *

(b)(1) * * *

Note: * * * However, on review of the denial the Environmental Appeals Board is authorized by § 124.91(a)(1) to review policy or legal conclusions of the Regional Administrator. EPA is requiring an appeal to the Environmental Appeals Board even of purely legal issues involved in a permit decision to ensure that the Environmental Appeals Board will have an opportunity to review any permit before it will be final and subject to judicial review.

* * * * *

6. Section 124.75 is amended by revising the second sentence of paragraph (b) to read as follows:

§ 124.75 Decision on request for a hearing.

* * * * *

(b) * * * That denial is subject to review by the Environmental Appeals Board under § 124.91.

7. Section 124.78 is amended by revising the first sentence of paragraph (a)(2) to read as follows:

§ 124.75 Ex parte communications.

(a) * * *

(2) *Decisional body* means any Agency employee who is or may reasonably be expected to be involved in the decisional process of the proceeding including the Administrator, the members of the Environmental Appeals Board, the Presiding Officer, the Regional Administrator (if he or she does not designate himself or herself as a member of the Agency trial staff), and any of their staff participating in the decisional process. * * *

8. Section 124.89 is amended by revising paragraphs (b)(1) and (b)(2) to read as follows:

§ 124.89 Decisions.

* * * * *

(b) * * *

(1) A party files a petition for review by the Environmental Appeals Board pursuant to § 124.91; or

(2) The Environmental Appeals Board *sua sponte* files a notice that it will review the decision pursuant to § 124.91.

9. Section 124.90 is amended by revising the first and second sentences of paragraph (a), the paragraph (b) introductory text, all but the next to the last sentence of paragraph (c), and paragraph (d) to read as follows:

§ 124.90 Interlocutory appeal.

(a) Except as provided in this section, appeals to the Environmental Appeals Board may be taken only under § 124.91. Appeals from orders or rulings may be taken under this section only if the Presiding Officer, upon motion of a party, certifies those orders or rulings to the Environmental Appeals Board for appeal on the record. * * *

(b) The Presiding Officer may certify an order or ruling for appeal to the Environmental Appeals Board if:

* * * * *

(c) If the Environmental Appeals Board decides that certification was improperly granted, it shall decline to hear the appeal. The Environmental Appeals Board shall accept or decline all interlocutory appeals within 30 days of their submission; if the Environmental Appeals Board takes no action within that time, the appeal shall be automatically dismissed. When the Presiding Officer declines to certify an order or ruling to the Environmental Appeals Board for an interlocutory appeal, it may be reviewed by the Environmental Appeals Board only upon appeal from the initial decision of the Presiding Officer, except when the Environmental Appeals Board determines, upon motion of a party and in exceptional circumstances, that to delay review would not be in the public interest. Such motion shall be made within 5 days after receipt of notification that the Presiding Officer has refused to certify an order or ruling for interlocutory appeal to the Environmental Appeals Board. * * * The Environmental Appeals Board may, however, allow briefs and oral argument.

(d) In exceptional circumstances, the Presiding Officer may stay the proceeding pending a decision by the Environmental Appeals Board upon an order or ruling certified by the Presiding Officer for an interlocutory appeal, or upon the denial of such certification by the Presiding Officer.

* * * * *

10. Section 124.91 is amended by revising the first sentence of the paragraph (a)(1) introductory text, paragraphs (a)(1)(ii), (a)(3), (b), (c)(1), (c)(2), (d), (e), (f), the first, fourth, and fifth sentences of paragraph (g), paragraph (h), and by adding a new paragraph (i) to read as follows:

§ 124.91 Appeal to the Environmental Appeals Board.

(a)(1) Within 30 days after service of an initial decision, or a denial in whole or in part of a request for an evidentiary hearing, any party or requester, as the case may be, may appeal any matter set forth in the initial decision or denial, or any adverse order or ruling to which the party objected during the hearing, by filing with the Environmental Appeals Board notice of appeal and petition for review. * * *

* * * * *

(ii) An exercise of discretion or policy which is important and which the Environmental Appeals Board should review.

* * * * *

(3) Policy decisions made or legal conclusions drawn in the course of denying a request for an evidentiary hearing may be reviewed and changed by the Environmental Appeals Board in an appeal under this section.

(b) Within 30 days of an initial decision or denial of a request for an evidentiary hearing, the Environmental Appeals Board may, *sua sponte*, review such decision. Within 7 days after the Environmental Appeals Board has decided under this section to review an initial decision or the denial of a request for an evidentiary hearing, notice of that decision shall be served by mail upon all affected parties and the Regional Administrator.

(c)(1) Within a reasonable time following the filing of the petition for review, the Environmental Appeals Board shall issue an order either granting or denying the petition for review. When the Environmental Appeals Board grants a petition for review or determines under paragraph (b) of this section to review a decision, the Environmental Appeals Board may notify the parties that only certain issues shall be briefed.

(2) Upon granting a petition for review, the Regional Hearing Clerk shall promptly forward a copy of the record to the Environmental Appeals Board and shall retain a complete duplicate copy of the record in the Regional Office.

(d) Notwithstanding the grant of a petition for review or a determination under paragraph (b) of this section to review a decision, the Environmental Appeals Board may summarily affirm without opinion an initial decision or the denial of a request for an evidentiary hearing.

(e) A petition to the Environmental Appeals Board under paragraph (a) of this section for review of any initial decision or the denial of an evidentiary hearing is, under 5 U.S.C. 704, a prerequisite to the seeking of judicial review of the final decision of the Agency.

(f) If a party timely files a petition for review or if the Environmental Appeals Board *sua sponte* orders review, then, for purposes of judicial review, final Agency action on an issue occurs as follows:

(1) If the Environmental Appeals Board denies review or summarily affirms without opinion as provided in § 124.91(d), then the initial decision or denial becomes the final Agency action and occurs upon the service of notice of the Environmental Appeals Board's action.

(2) If the Environmental Appeals Board issues a decision without remanding the proceeding then the final permit, redrafted as required by the Environmental Appeals Board's original decision, shall be reissued and served upon all parties to the appeal.

(3) If the Environmental Appeals Board issues a decision remanding the proceeding, then final Agency action occurs upon completion of the remanded proceeding, inlcuding any appeals to the Environmental Appeals Board from the results of the remanded proceeding.

(g) The petitioner may file a brief in support of the petition within 21 days after the Environmental Appeals Board has granted a petition for review. * * * Any person may file an *amicus brief* for the consideration of the Environmental Appeals Board within the same time periods that govern reply briefs. If the Environmental Appeals Board determines, *sua sponte*, to review an initial Regional Administrator's decision or the denial of a request for an evidentiary hearing, the Environmental Appeals Board shall notify the parties of the schedule for filing briefs.

(h) Review by the Environmental Appeals Board of an initial decision or the denial of an evidentiary hearing shall be limited to the issues specified under paragraph (a) of this section, except that after notice to all the parties, the Environmental Appeals Board may raise and decide other matters which it considers material on the basis of the record.

(i) Motions to reconsider a final order shall be filed within ten (10) days after service of the final order. Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration under this provision shall be directed to, and decided by, the Environmental Appeals Board. Motions for reconsideration directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered, except in cases that the Environmental Appeals Board has referred to the Administrator pursuant to § 124.72 and in which the Administrator has issued the final order. A motion for reconsideration shall not stay the effective date of the final order unless specifically so ordered by the Environmental Appeals Board.

11. Section 124.115 is amended by revising the second sentence to read as follows:

§ 124.115 Effect of denial of or absence of request for hearing.

* * * Any person whose hearing request has been denied may then appeal that recommended decision to the Environmental Appeals Board as provided in § 124.91.

12. Section 124.124 is amended by revising the last sentence to read as follows:

§ 124.124 Recommended decision.

* * * After the recommended decision has been filed, the Regional Hearing Clerk shall serve a copy of that decision on each party and upon the Environmental Appeals Board.

13. Section 124.125 is revised to read as follows:

§ 124.125 Appeal from or review of recommended decision.

Within 30 days after service of the recommended decision, any party may take exception to any matter set forth in that decision or to any adverse order or ruling of the Presiding Officer to which that party objected, and may appeal those exceptions to the Environmental Appeals Board as provided in § 124.91, except that references to the "initial decision" will mean recommended decision under § 124.124.

14. Section 124.126 is revised to read as follows:

§ 124.126 Final decision.

As soon as practicable after all appeal proceedings have been completed, the Environmental Appeals Board shall issue a final decision. The Environmental Appeals Board may consult with the Presiding Officer, members of the hearing panel, or any other EPA employee other than members of the Agency Trial Staff under § 124.78 in preparing the final decision. The Hearing Clerk shall file a copy of the decision on all parties.

15. Section 124.127 is revised to read as follows:

§ 124.127 Final decision if there is no review.

If no party appeals a recommended decision to the Environmental Appeals Board, and if the Environmental Appeals Board does not elect to review it, the recommended decision becomes the final decision of the Agency upon the expiration of the time for filing any appeals.

16. Section 124.128 is revised to read as follows:

§ 124.128 Delegation of authority; time limitations.

(a) The Administrator delegates authority to the Environmental Appeals Board (which is described in § 1.25 of this title) to issue final decisions in appeals filed under this subpart. An appeal directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this subpart to the Administrator when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator by the Environmental Appeals Board, all parties shall be so notified and the rules in this subpart referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

(b) The failure of the Environmental Appeals Board, the Regional Administrator, or the Presiding Officer to do any act within the time periods specified under this part shall not waive or diminish any right, power, or authority of the United States Environmental Protection Agency.

(c) Upon a showing by any party that it has been prejudiced by a failure of the Environmental Appeals Board, the Regional Administrator, or the Presiding Officer to do any act within the time periods specified under this part, the Environmental Appeals Board, the Regional Administrator, and the Presiding Officer, as the case may be, may grant that party such relief of a procedural nature (including extension of any time for compliance or other action) as may be appropriate.

17. In appendix A to part 124 figure 1 is amended by revising 1.c.ii, 6.a, and the second sentence of 7, and by revising the second sentence of the second paragraph of 4 in Figure 2 to read as follows:

Appendix A to Part 124—Guide to Decisionmaking Under Part 124

* * * * *

Figure 1—Conventional EPA Permitting Procedures

* * * * *

1. * * *

c. * * *

ii. If the request is denied, an informal appeal to the Environmental Appeals Board is available.

* * * * *

6. * * *

a. RCRA, UIC, or PSD permits standing alone will be appealed directly to the Environmental Appeals Board under § 124.9.

* * * * *

7. * * * Procedures for appeal to the Environmental Appeals Board under § 124.19 are self-explanatory; subpart F procedures are diagrammed in Figure 2; and subpart E procedures are basically the same that would apply in any evidentiary hearing.

Figure 2—Non-Adversary Panel Procedures

* * * * *

4. * * *

* * * The recommended decision may then be appealed to the Environmental Appeals Board. See § 124.115.

* * * * *

18. The flow chart at the end of appendix A under the heading "Figure 2-Non-Adversary Panel Procedures" is revised to read as follows:

BILLING CODE 6560-50-M

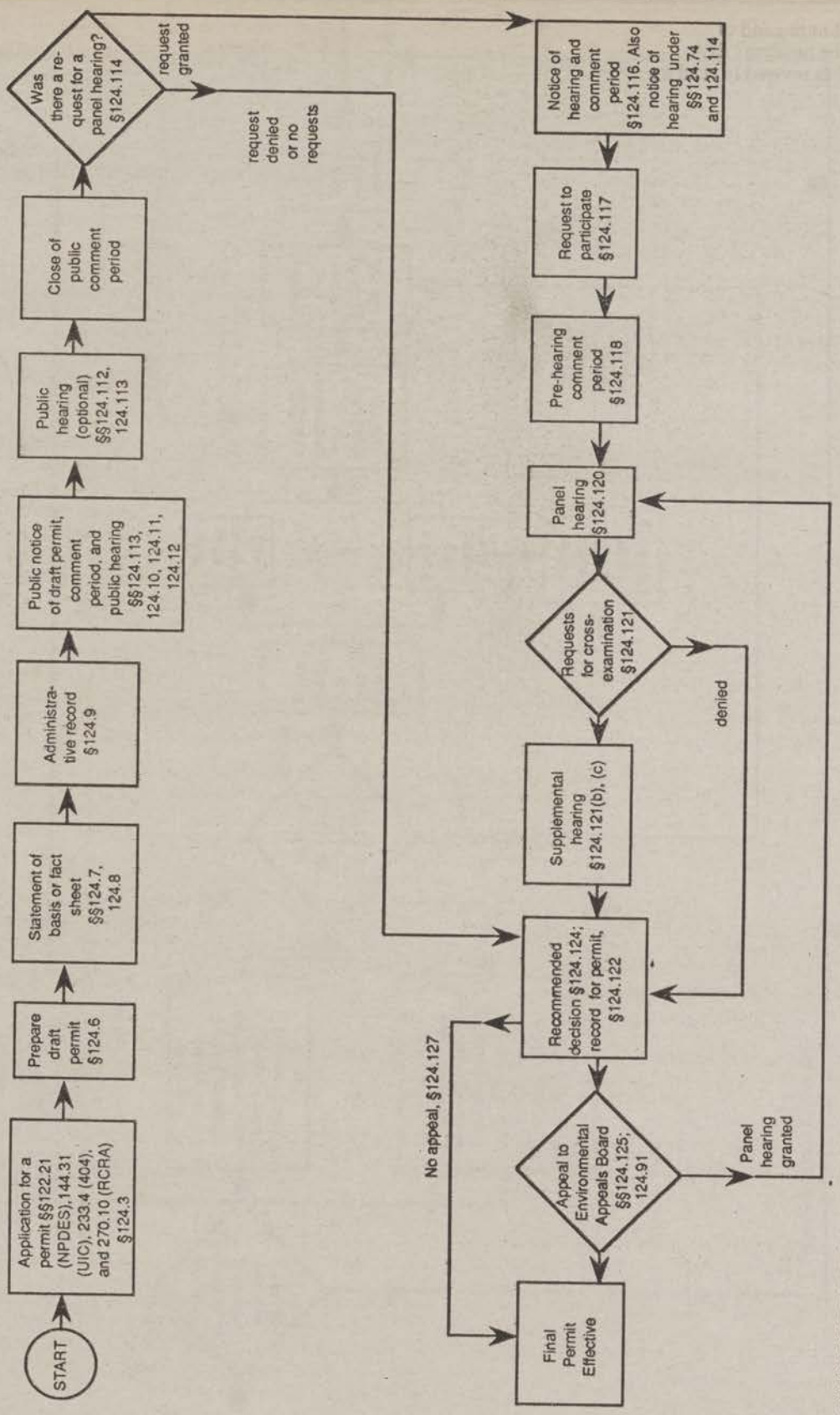
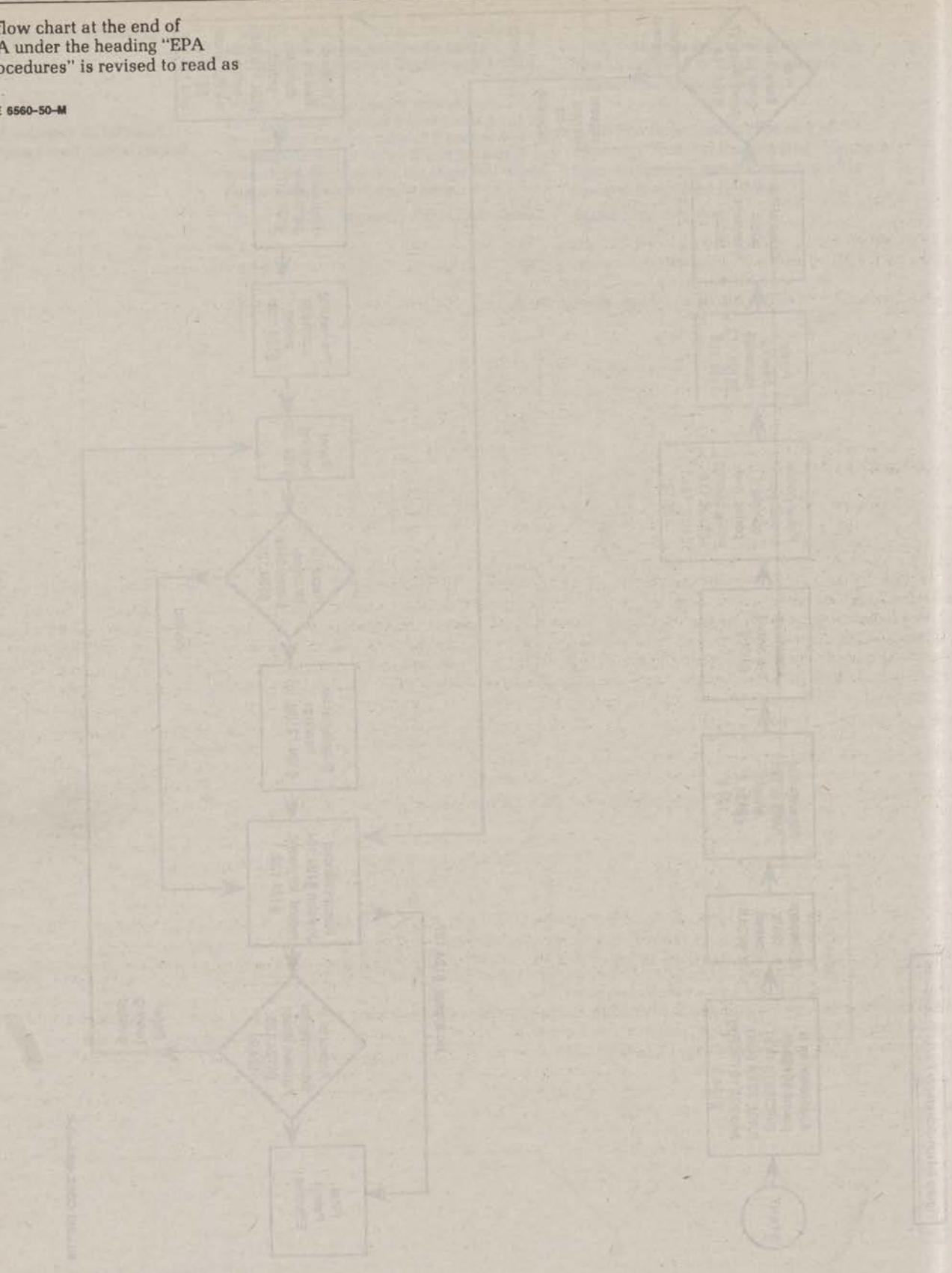
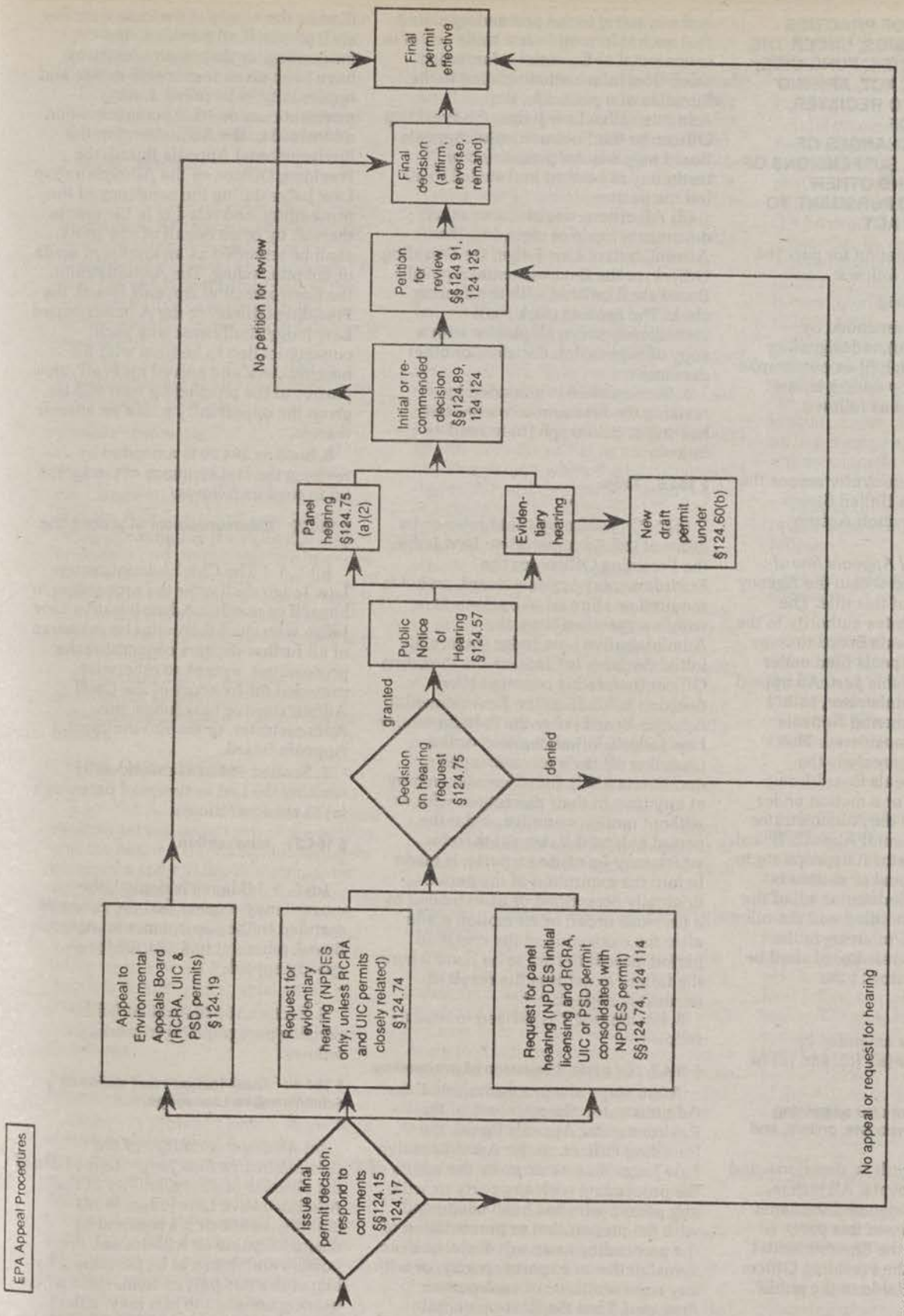


Figure 2-Non-Adversary Panel Procedures

19. The flow chart at the end of appendix A under the heading "EPA Appeal Procedures" is revised to read as follows:

BILLING CODE 6560-50-M





BILLING CODE 6560-50-C

PART 164—RULES OF PRACTICE GOVERNING HEARINGS, UNDER THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT, ARISING FROM REFUSALS TO REGISTER, CANCELLATIONS OF REGISTRATIONS, CHANGES OF CLASSIFICATIONS, SUSPENSIONS OF REGISTRATIONS AND OTHER HEARINGS CALLED PURSUANT TO SECTION 6 OF THE ACT

1. The authority citation for part 164 continues to read as follows:

Authority: 7 U.S.C. 136d.

2. Section 164.2 is amended by revising paragraph (c), redesignating paragraphs (g) through (j) as paragraphs (h) through (k) and by adding a new paragraph (g) to read as follows:

§ 164.2 Definitions

* * * * *

(c) The term *Administrator* means the Administrator of the United States Environmental Protection Agency.

* * * * *

(g) *Environmental Appeals Board* shall mean the Board within the Agency described in § 1.25 of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in appeals filed under subparts B and C of this part. An appeal directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation does not preclude the Environmental Appeals Board from referring an appeal or a motion under subparts B and C to the Administrator when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all of the parties shall be so notified and the rules in subparts B and C referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

* * * * *

3. Section 164.4 is amended by revising paragraphs (a), (c), and (d) to read as follows:

§ 164.4 Arrangements for examining Agency records, transcripts, orders, and decisions.

(a) Reporting of orders, decisions, and other signed documents. All orders, decisions, or other signed documents required by the rules in this part, whether issued by the Environmental Appeals Board or the Presiding Officer shall be made available to the public.

* * * * *

(c) Whenever any information or data is required to be produced or examined and any party to the proceeding claims that such information is a trade secret or commercial or financial information, other than information relating to the formulas of a pesticide, the Administrative Law Judge, the Presiding Officer, or the Environmental Appeals Board may require production or testimony *in camera* and sealed to all but the parties.

(d) All orders, decisions, or other documents made or signed by the Administrative Law Judge, the Presiding Officer, or the Environmental Appeals Board shall be filed with the hearing clerk. The hearing clerk shall immediately serve all parties with a copy of such order, decision, or other document.

4. Section 164.6 is amended by revising the first sentence after the hearing of paragraph (b) to read as follows:

§ 164.6 Time.

* * * * *

(b) * * * When by these rules or by order of the Administrative Law Judge, the Presiding Officer, or the Environmental Appeals Board, an act is required or allowed to be done at or within a specified time, the Administrative Law Judge (before his initial decision is filed), or the Presiding Officer (before his recommended decision is filed), or the Environmental Appeals Board (after the Administrative Law Judge's initial decision or the presiding officer's recommended decision is filed), for cause shown may at any time in their discretion: with or without motion or notice, order the period enlarged if request therefor, which may be made ex parte, is made before the expiration of the period originally prescribed or as extended by a previous order; or on motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect. * * *

5. Section 164.7 is revised to read as follows:

§ 164.7 Ex parte discussion of proceeding.

At no stage of a proceeding shall the Administrator, the members of the Environmental Appeals Board, the Presiding Officer, or the Administrative Law Judge discuss *ex parte* the merits of the proceeding with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate, or in an investigative or expert capacity, or with any representative of such person, *Provided*, That the Environmental Appeals Board, the Presiding Officer, or the Administrative Law Judge may discuss the merits of the case with any such person if all parties to the proceeding, or their representatives, have been given reasonable notice and opportunity to be present. Any memorandum or other communication addressed to the Administrator, the Environmental Appeals Board, the Presiding Officer, or the Administrative Law Judge during the pendency of the proceeding, and relating to the merits thereof, by or on behalf of any party, shall be regarded as an argument made in the proceeding. The Administrator, the Environmental Appeals Board, the Presiding Officer, or the Administrative Law Judge shall cause any such communication to be filed with the hearing clerk and served upon all other parties to the proceeding who will be given the opportunity to file an answer thereto.

6. Section 164.20 is amended by revising the last sentence of paragraph (c) to read as follows:

§ 164.20 Commencement of proceeding.

* * * * *

(c) * * * The Chief Administrative Law Judge shall refer the proceeding to himself or another Administrative Law Judge who shall thereafter be in charge of all further matters concerning the proceedings, except as otherwise provided for by order of the Chief Administrative Law Judge, the Administrator, or the Environmental Appeals Board.

7. Section 164.31 is amended by revising the last sentence of paragraph (c) to read as follows:

§ 164.31 Intervention.

* * * * *

(c) * * * If leave is denied, the movant may request that the ruling be certified to the Environmental Appeals Board, pursuant to § 164.100 for a speedy appeal.

* * * * *

8. Section 164.40 is amended by revising paragraph (e) to read as follows:

§ 164.40 Qualifications and duties of Administrative Law Judge.

* * * * *

(e) *Absence or change of the Administrative Law Judge.* In the case of the absence or unavailability of the Administrative Law Judge, or his inability to act, or his removal by disqualification or withdrawal, the powers and duties to be performed by him under this part in connection with a hearing assigned to him may, unless otherwise directed by the Administrator, be assigned to another Administrative

Law Judge so designated to act by the Chief Administrative Law Judge, the Administrator or the Environmental Appeals Board.

9. Section 164.60 is amended by revising the third and fourth sentences of paragraph (c) to read as follows:

§ 164.60 Motions.

* * * * *

(c) * * * The Environmental Appeals Board shall rule upon all motions filed after the filing of the initial or accelerated decision. Oral argument of motions will be permitted only if the Administrative Law Judge or the Environmental Appeals Board deems it necessary.

10. Section 164.81 is amended by revising the last sentence of paragraph (f) to read as follows:

§ 164.81 Evidence.

* * * * *

(f) * * * In the event the Environmental Appeals Board decides that the Administrative Law Judge's ruling in excluding the evidence was erroneous and prejudicial, the hearings may be reopened to permit the taking of such evidence, or where appropriate, the Environmental Appeals Board may evaluate the evidence and proceed to a final decision.

11. Section 164.90 is amended by revising the second and the third sentences of paragraph (b) to read as follows:

§ 164.90 Initial Decision.

* * * * *

(b) * * * A copy of the initial decision shall be served upon each of the parties, and the hearing clerk shall immediately transmit a copy to the Environmental Appeals Board. The initial decision shall become the decision of the Environmental Appeals Board without further proceedings unless an appeal is taken from it or the Environmental Appeals Board orders review of it, pursuant to § 164.101.

12. Section 164.100 is revised to read as follows:

§ 164.100 Appeals from or review of interlocutory orders or rulings.

Except as provided herein, appeals as a matter of right shall lie to the Environmental Appeals Board only from an initial or accelerated decision of the Administrative Law Judge. Appeals from other orders or rulings shall, except as provided in this section, lie only if the Administrative Law Judge certifies such orders or rulings for appeal, or otherwise as provided. The Administrative Law Judge may certify an order or ruling for appeal to the Environmental Appeals Board when: (a) The order or ruling involves an important question of law or policy about which there is substantial ground for difference of opinion; and (b) either (1) an immediate appeal from the order and ruling will materially advance the ultimate termination of the proceeding or (2) review after the final judgment is issued will be inadequate or ineffective. The Administrative Law Judge shall certify orders or rulings for appeal only upon the request of a party. If the Environmental Appeals Board determines that certification was improvidently granted, or takes no action within thirty (30) days of the certification, the appeal shall be deemed dismissed. When an order or ruling is not certified by the Administrative Law Judge, it shall be reviewed by the Environmental Appeals Board only upon appeal from the initial or accelerated decision except when the Environmental Appeals Board determines, upon request of a party and in exceptional circumstances, that delaying review would be deleterious to vital public or private interests. Except in extraordinary circumstances proceedings will not be stayed pending an interlocutory appeal; where a stay is granted, a stay of more than 30 days must be approved by the Environmental Appeals Board. Ordinarily, the interlocutory appeal will be decided on the basis of the submission made to the Administrative Law Judge, but the Environmental Appeals Board may allow further briefs and oral argument.

13. Section 164.101 is amended by revising the first sentence of paragraph (a)(1), the second and third sentences of paragraph (b), and paragraph (c) to read as follows:

§ 164.101 Appeals from or review of initial decisions.

(a) * * * (1) Within 20 days after the filing of the Administrative Law Judge's initial decision, each party may take exception to any matter set forth in such decision or to any adverse order or ruling to which he objected during the hearing and may appeal such exceptions to the Environmental Appeals Board for decision by filing them in writing with the hearing clerk, including a section containing proposed findings of fact, conclusions, orders, or rulings. * * *

* * * * *

(b) * * * Within 10 days after said notification, the Environmental Appeals Board shall issue an order either declining review of the initial decision or expressing its intent to review said initial decision. Such order may include a statement of issues to be briefed by the parties and a time schedule concerning service and filing of briefs adequate to allow the Environmental Appeals Board to issue a final order within 90 days from the close of the hearing.

(c) *Argument before the Environmental Appeals Board.* (1) A party, if he files exceptions and a brief, shall state in writing whether he desires to make an oral argument thereon before the Environmental Appeals Board; otherwise, he shall be deemed to have waived such oral argument. The Environmental Appeals Board shall, however, on its own initiative, have the right to set an appeal for oral argument.

(2) If the Environmental Appeals Board determines that additional exceptions should be argued, counsel for the parties shall be given reasonable written notice of such determination so as to permit preparation of adequate argument on all of the exceptions to be argued.

14. Section 164.102 is amended by revising paragraph (c) to read as follows:

§ 164.102 Appeals from accelerated decisions.

* * * * *

(c) Ordinarily, the appeal from an accelerated decision will be decided on the basis of the submission of briefs, but the Environmental Appeals Board may allow additional briefs and oral argument.

15. Section 164.103 is revised to read as follows:

§ 164.103 Final decision or order on appeal or review.

Within 90 days after the close of the hearing or within 90 days from the filing of an accelerated decision, unless otherwise stipulated by the parties, the Environmental Appeals Board shall, on appeal or review from an initial or accelerated order of the Administrative Law Judge, issue its final decision and order, including its rulings on any exceptions filed by the parties; such final order may accept or reject all or part of the initial or accelerated decision of the Administrative Law Judge even if acceptable to the parties.

16. Section 164.110 is amended by revising the first sentence of paragraph (a) and paragraph (c) to read as follows:

§ 164.110 Motion for reopening hearings; for rehearing; for reargument of any proceeding; or for reconsideration of order.

(a) * * * A motion for reopening the hearing to take further evidence, or for rehearing or reargument of any proceeding or for reconsideration of the order, must be made by motion to the

Environmental Appeals Board filed with the hearing clerk. * * *

* * * * *

(c) *Motions to rehear or reargue proceedings, or to reconsider final orders.* A motion to rehear or reargue the proceeding or to reconsider the final order shall be filed within 10 days after the date of service of the final order. Every such motion must state specifically the matters claimed to have been erroneously decided, and alleged errors must be briefly stated. Motions to rehear or reargue proceedings or to reconsider final orders shall be directed to, and heard by, the Environmental Appeals Board. Motions under this section directed to the Administrator will not be considered, except in cases that the Environmental Appeals Board has referred to the Administrator pursuant to § 164.2(g) and in which the Administrator has issued the final order. A motion for reconsideration shall not stay the effective date of the final order unless specifically so ordered by the Environmental Appeals Board.

17. Section 164.111 is amended by revising all but the first sentence to read as follows:

§ 164.111 Procedure for disposition of motions.

* * * As soon as practicable thereafter, the Environmental Appeals Board shall announce its decision whether to grant or to deny the motion. Unless the Environmental Appeals Board shall determine otherwise, operation of the order shall not be stayed pending the decision to grant or to deny the motion. In the event that any such motion is granted by the Environmental Appeals Board, the applicable rules of practice, as set out elsewhere herein, shall be followed.

18. Section 164.121 is amended by revising paragraphs (j)(3) and (j)(4) to read as follows:

§ 164.121 Expedited hearing.

* * * * *

(j) * * *

(3) Within 10 days of the conclusion of the presentation of evidence the Presiding Officer shall submit to the Environmental Appeals Board his recommended findings and conclusions, together with the record.

(4) Within 12 days of the conclusion of the presentation of evidence the parties shall submit to the Environmental Appeals Board their objections to the Presiding Officer's recommended findings and conclusions and written briefs in support thereof.

19. Section 164.122 is amended by revising the first sentence of paragraph (a) and the first sentence of paragraph (b) to read as follows:

§ 164.122 Final order and order of suspension.

(a) * * * Within 7 days of receipt of the record and of the Presiding Officer's recommended findings and conclusions, the Environmental Appeals Board shall issue a final decision and order. * * *

(b) * * * No final order of suspension shall be issued unless the Environmental Appeals Board has issued or at the same time issues a notice of its intention to cancel the registration or change the classification of the pesticide. * * *

20. Section 164.123 is amended by revising paragraph (a) and the first sentence of paragraph (b) to read as follows:

164.123 Emergency order.

(a) Whenever the Environmental Appeals Board determines that an emergency exists that does not permit him to hold a hearing before suspension, the Environmental Appeals Board may issue a suspension order in advance of notification to the registrant.

(b) The Environmental Appeals Board shall immediately notify the registrant of the suspension order. * * *

PART 209—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE NOISE CONTROL ACT OF 1972

1. The authority citation for part 209 continues to read as follows:

Authority: Sec. 11, Noise Control Act of 1972 (42 U.S.C. 4910) and additional authority as specified.

2. Section 209.3 is amended by revising paragraph (k) to read as follows:

§ 209.3 Definitions.

* * * * *

(k) "Environmental Appeals Board" means the Board within the Agency described in § 1.25 of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in appeals filed under this part. An appeal directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this part to the Administrator for decision when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

* * * * *

3. Section 209.14 is amended by revising paragraph (b) and the second and third sentences of paragraph (c) to read as follows:

§ 209.14 Motions.

* * * * *

(b) Within 10 days after service of any motion filed under this section or within such other time as may be fixed by the Environmental Appeals Board or the administrative law judge, as appropriate, any party may serve and file an answer to the motion. The movant shall, by leave of the Environmental Appeals Board or the administrative law judge, as appropriate, serve and file reply papers within the time set by the request.

(c) * * * The Environmental Appeals Board shall rule upon all motions filed before the appointment of the administrative law judge and all motions filed after the filing of the decision of the administrative law judge or accelerated decision. Oral argument of motions will be permitted only if the administrative law judge or the Environmental Appeals Board, as appropriate, deems it necessary.

4. Section 209.17 is amended by revising the first sentence to read as follows:

§ 209.17 Amicus curiae.

Persons not parties to the proceedings who wish to file briefs may do so by leave of the Environmental Appeals Board or the administrative law judge, as appropriate, granted on motion. * * *

5. Section 209.19 is amended by revising paragraph (b) and the first and second sentences of paragraph (c) to read as follows:

§ 209.19 Informal settlement and consent agreement.

* * * * *

(b) *Consent agreement.* A written consent agreement signed by the complainant and respondent shall be prepared by the complainant and forwarded to the Environmental Appeals Board whenever settlement or compromise is proposed. A copy shall be served on all other parties to the proceeding, no later than the date the consent agreement is forwarded to the Environmental Appeals Board. The consent agreement shall state that, for the purpose of this proceeding, respondent (1) admits the jurisdictional allegations of the complaint; (2) admits the facts as stipulated in the consent

agreement or neither admits nor denies specific factual allegations contained in the complaint; and (3) consents to the issuance of a given remedial order. The consent agreement shall include (i) the terms of the agreement; (ii) any appropriate conclusions regarding material issues of law, fact and/or discretion as well as reasons therefor; and (iii) the Environmental Appeals Board's proposed final order. The administrative law judge does not have jurisdiction over a consent agreement.

(c) * * * No settlement or consent agreement shall be dispositive of any action pending under section 11(d) of the act without a final order of the Environmental Appeals Board. In preparing a final order, the Environmental Appeals Board may require that any or all of the parties to the settlement or other parties appear before it to answer inquiries relating to the proposed consent agreement. * * *

6. Section 209.24 is amended by revising the last sentence of paragraph (a) and the last sentence of paragraph (c) to read as follows:

§ 209.24 Default order.

(a) * * * The remedial order proposed is binding on respondent without further proceedings upon the issuance by the Environmental Appeals Board of a final order issued upon default.

* * * * *

(c) * * * An order issued by the Environmental Appeals Board upon default of respondent shall constitute a final order in accordance with the terms of § 209.33.

7. Section 209.27 is amended by revising paragraphs (a), (c), and (d) to read as follows:

§ 209.27 Interlocutory appeal.

(a) An interlocutory appeal may be taken to the Environmental Appeals Board either (1) with the consent of the administrative law judge where he or she certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense or prejudice to any party or substantial detriment to the public interest, or (2) absent the consent of the administrative law judge, by permission of the Environmental Appeals Board.

* * * * *

(c) Applications to file such appeals absent consent of the administrative law judge shall be filed with the Environmental Appeals Board within 5 days of the denial of any appeal by the administrative law judge.

(d) The Environmental Appeals Board will consider the merits of the appeal on the application and answers. No oral argument will be heard nor other briefs filed unless the Environmental Appeals Board directs otherwise.

* * * * *

8. Section 209.30 is amended by revising paragraph (b) to read as follows:

§ 209.30 Decision of the administrative law judge.

* * * * *

(b) The administrative law judge's decision shall become the decision of the Environmental Appeals Board (1) when no notice of intention to appeal as described in § 209.31 is filed, 30 days after its issuance, unless in the interim the Environmental Appeals Board shall have taken action to review or stay the effective date of the decision; or (2) when a notice of intention to appeal is filed but the appeal is not perfected as required by § 209.31, 5 days after the period allowed for perfection of an appeal has expired unless within that 5 day period, the Environmental Appeals Board has taken action to review or stay the effective date of the decision.

* * * * *

9. Section 209.31 is amended by revising paragraphs (a), (c)(4), (d), and (e) to read as follows:

§ 209.31 Appeal from the decision of the administrative law judge.

(a) Any party to a proceeding may appeal the administrative law judge's decision to the Environmental Appeals Board: Provided, That within 10 days after the administrative law judge's decision is issued, the party files a notice of intention to appeal, and within 30 days of the decision the party files an appeal brief.

* * * * *

(c) * * *

(4) A proposed form of rule or order for the Environmental Appeals Board's consideration if different from the rule or order contained in the administrative law judge's decision.

(d) Briefs shall not exceed 40 pages without leave of the Environmental Appeals Board.

(e) The Environmental Appeals Board may allow oral argument in its discretion.

10. Section 209.32 is revised to read as follows:

§ 209.32 Review of the administrative law judge's decision in absence of appeal.

(a) If, after the expiration of the period for taking an appeal under § 209.31, no notice of intention to appeal the decision of the administrative law judge has been filed, or if filed, not perfected, the hearing clerk shall so notify the Environmental Appeals Board.

(b) The Environmental Appeals Board, upon receipt of notice from the hearing clerk that no notice of intention to appeal has been filed, or if filed, not perfected pursuant to § 209.31, may, on its own motion, within the time limits specified in § 209.30(b), review the decision of the administrative law judge. Notice of the Environmental Appeals Board's intention to review the decision of the administrative law judge shall be given to all parties and shall set forth the scope of such review and the issues which shall be considered and shall make provision for filing of briefs.

11. Section 209.33 is revised to read as follows:

§ 209.33 Decision on appeal or review.

(a) Upon appeal from or review of the administrative law judge's decision, the Environmental Appeals Board shall consider such parts of the record as are cited or as may be necessary to resolve the issues presented and, in addition shall to the extent necessary or desirable exercise all the powers which the Environmental Appeals Board could have exercised if it had presided at the hearing.

(b) The Environmental Appeals Board shall render a decision as expeditiously as possible. The Environmental Appeals Board shall adopt, modify, or set aside the findings, conclusions, and rule or order contained in the decision of the administrative law judge and shall set forth in its decision a statement of the reasons or bases for its action. The Environmental Appeals Board's decision shall be the final order in the proceeding.

(c) In those cases where the Environmental Appeals Board determines that it should have further information or additional views of the parties as to the form and content of the rule or order to be issued, the Environmental Appeals Board, in its discretion, may withhold final action pending the receipt of such additional information or views, or may remand the case to the administrative law judge.

12. Section 209.34 is revised to read as follows:

§ 209.34 Reconsideration.

Within five (5) days after service of the Environmental Appeals Board's decision, any party may file a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Petitions for reconsideration under this provision shall be directed to, and decided by, the

Environmental Appeals Board. Petitions for reconsideration directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered, except in cases that the Environmental Appeals Board has referred to the Administrator's pursuant to § 209.3(k) and in which the Administrator has issued the final order. Any petition filed under this subsection must be confined to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before the administrative law judge or the Environmental Appeals Board. Any party desiring to oppose a petition shall filed an answer thereto within five (5) days after service of the petition. The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order.

13. Section 209.35 is revised to read as follows:

§ 209.35 Conclusion of hearing.

(a) If no appeal has been taken from the administrative law judge's decision before the period for taking an appeal under § 209.31 has expired, and the period for review by the Environmental Appeals Board on its own motion under § 209.30 has expired, and the Environmental Appeals Board does not move to review such decision, the hearing will be deemed to have ended at the expiration of all periods allowed for such appeal and review.

(b) If an appeal of the administrative law judge's decision is taken under § 209.31, or if, in the absence of such appeal, the Environmental Appeals Board moves to review the decision of the administrative law judge under § 209.32, the hearing will be deemed to have ended upon the rendering of a final decision by the Environmental Appeals Board.

14. Section 209.36 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 209.36 Judicial review.

(a) * * * That officer shall be responsible for filing in the court the record on which the order of the Environmental Appeals Board is based.

* * * * *

PART 222—ACTION ON OCEAN DUMPING PERMIT APPLICATIONS UNDER SECTION 102 OF THE ACT

1. The authority citation for part 222 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 222.12 is amended by revising paragraphs (a), (b)(4), (c), (e), and (f) to read as follows:

§ 222.12 Appeal to the Environmental Appeals Board.

(a)(1) The Administrator delegates to the Environmental Appeals Board authority to issue final decisions in appeals filed under this part. An appeal directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this part to the Administrator for decision when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion to referred to the Administrator, all parties shall be so notified and the rules in this section referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

(2) Within 10 days following receipt of the determination of the Regional Administrator pursuant to paragraph (f)(2) of § 222.11, any party to an adjudicatory hearing held in accordance with § 222.11 may appeal such determination to the Environmental Appeals Board by filing a written notice of appeal, or the Environmental Appeals Board may, on its own initiative, review any prior determination.

(b) * * *

(4) A concise statement setting forth the action which the person proposes that the Environmental Appeals Board take; and

* * * * *

(c) The effective date of any determination made pursuant to paragraph (f)(2) of § 222.11 may be stayed by the Environmental Appeals Board pending final determination by it pursuant to this section upon the filing of a notice of appeal which satisfies the requirements of paragraph (b) of this section or upon initiation by the Environmental Appeals Board of review of any determination in the absence of such notice of appeal.

* * * * *

(e) Within 45 days following the filing of a notice of appeal in accordance with this section, the Environmental Appeals Board shall render its final determination with respect to all issues raised in the appeal to the Environmental Appeals Board and shall affirm, reverse, or modify the previous determination and briefly state the basis for its determination.

(f) In accordance with 5 U.S.C. section 704, the filing of an appeal to the Environmental Appeals Board pursuant to this section shall be a prerequisite to judicial review of any determination to issue or impose conditions upon any permit, or to modify, revoke or suspend any permit, or to take any other enforcement action, under this subchapter H.

PART 223—CONTENTS OF PERMITS; REVISION, REVOCATION OR LIMITATION OF OCEAN DUMPING PERMITS UNDER SECTION 104(d) OF THE ACT

1. The authority citation for part 223 continues to read as follows:

Authority: Secs. 102, 104, 107, 108, Marine Protection Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1412, 1414, 1417, 1418).

2. Section 223.4 is amended by revising the first sentence of paragraph (d) to read as follows:

§ 223.4 Request for, scheduling and conduct of public hearing; determination.

* * * * *

(d) * * * Any hearing convened pursuant to this part shall be conducted by a Presiding Officer, who shall be either a Regional Judicial Officer or a person having the qualifications of the members of the Environmental Appeals Board (described in 40 CFR 1.25(e)) if assigned by the Administrator or the qualifications of a Regional Judicial Officer if assigned by the Regional Administrator, as appropriate. * * *

* * * * *

PART 233—404 STATE PROGRAM REGULATIONS

1. The authority citation for part 233 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 233.53 is amended by revising the first and second sentences after the heading of paragraph (c)(3)(ii)(B) to read as follows:

§ 233.53 Withdrawal of program approval.

* * * * *

(c) * * *

(3) * * *

(ii) * * *

(B) * * * At no time after the issuance of the order commencing proceedings shall the Administrator, the Regional Administrator, the Regional Judicial Officer, the Presiding Officer, or any other person who is likely to advise these officials in the decisions on the case, discuss ex parte the merits of the

proceeding with any interested person outside the Agency, with any Agency staff member who performs a prosecutorial or investigative function in such proceeding or a factually related proceeding, or with any representative of such person. Any ex parte memorandum or other communication addressed to the Administrator, the Regional Administrator, the Regional Judicial Officer, or the Presiding Officer during the pendency of the proceeding and relating to the merits thereof, by or on behalf of any party shall be regarded as argument made in the proceeding and shall be served upon all other parties. * * *

* * * * *

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

1. The authority citation for part 403 continues to read as follows:

Authority: Sec. 54(c)(2) of the Clean Water Act of 1977, (Pub. L. 95–217) sections 204(b)(1)(C), 208(b)(2)(C)(iii), 301(b)(1)(A)(ii), 301(b)(2)(A)(ii), 301(b)(2)(C), 301(h)(5), 301(i)(2), 304(e), 304(g), 307, 308, 309, 402(b), 405 and 501(a) of the Federal Water Pollution Control Act (Pub. L. 92–500) as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987 (Pub. L. 100–4).

2. Section 403.13 is amended by revising paragraph (m)(2) to read as follows:

§ 403.13 Variances from categorical pretreatment standards for fundamentally different factors.

* * * * *

(m) * * *

(2) If the Regional Administrator declines to hold a hearing and the Regional Administrator affirms the findings of the Administrator's delegate the requester may submit a petition for a hearing to the Environmental Appeals Board (which is described in § 1.25 of this title) within 30 days of the Regional Administrator's decision.

[FR Doc. 92–2371 Filed 2–12–92; 8:45 am]

BILLING CODE 6560–50–M

federal register

Thursday
February 13, 1992

Part IV

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice of Approved Tribal-State Compact

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved a Tribal-State Compact between the Sokaogon Chippewa Community and the State of Wisconsin executed on August 22, 1991.

DATED: This action is effective February 13, 1992.

ADDRESSES: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS–MIB 4603, 1849 "C" Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Joyce Grisham, Bureau of Indian Affairs, Washington, DC 20240 (202) 208–7445.

Dated: February 6, 1992.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 92–3399 Filed 2–12–92; 8:45 am]

BILLING CODE 4310–02–M

federal register

Thursday
February 13, 1992

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Parts 107 and 108
Unescorted Access Privilege; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 107 and 108

[Docket No. 26763; Notice No. 92-3]

RIN 2120-AE14

Unescorted Access Privilege

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to establish regulations for employment investigations and criminal history record checks. This proposal will affect individuals who have, or who may authorize others to have, unescorted access privileges to security identification display areas of U.S. airports. The regulations proposed in this NPRM implement requirements of the Aviation Security Improvement Act of 1990. The proposed regulations are intended to enhance the effectiveness of U.S. civil aviation security systems by disqualifying individuals convicted of certain enumerated crimes from having, or being able to authorize others to have, unescorted access privileges to security identification display areas of U.S. airports.

DATES: Comments must be received on or before March 16, 1992. However, late filed comments will be considered to the extent practicable.

ADDRESSES: Comments on this notice should be mailed, in triplicate, to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC-10), Docket No. 26763, 800 Independence Avenue, SW., Washington, DC 20591. All comments must be marked: "Docket No. 26763." Comments may be examined in room 915G on weekdays except on Federal holidays between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Andrew V. Cebula, Office of Civil Aviation Security Policy and Plans, Policy and Standards Division (ACP-110), Federal Aviation Administration, 800 Independence Avenue, SW., Washington DC 20591, telephone (202) 267-8293.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or international trade impacts that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and be submitted in triplicate to the Rules Docket at the address specified above. All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Late-filed comments will be considered to the extent practicable. The proposals contained in this notice may be changed in light of comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include with their comments a pre-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 26763." When the comment is received, the postcard will be dated, time stamped and mailed to the commenter.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-200, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice or docket number of this NPRM.

Persons interested in being placed on a mailing list for future proposed rules should request from the above office a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

History

Throughout the last decade, the FAA has recognized the need to investigate the backgrounds of individuals authorized to have unescorted access to security-restricted areas at U.S. airports. On November 26, 1985, the FAA undertook emergency action with respect to the aviation security programs of U.S. airports and U.S. air carriers. Individuals with unescorted access to airport security areas were made subject to a background check. The check requires the verification of such individual's employment history and references for the previous five years to the extent allowable by law.

The December 21, 1988, destruction of Pan American World Airways Flight 103 by a terrorist bomb while in flight over Lockerbie, Scotland was the worst disaster of its kind in U.S. civil aviation history. In response to this tragedy, on August 4, 1989, President Bush established the President's Commission on Aviation Security and Terrorism (Commission) (E.O. 12686). The Commission was given the task of assessing the overall effectiveness of the U.S. civil aviation security system.

The Commission's May 15, 1990, report presented a series of recommendations intended to improve the U.S. civil aviation security system, which is administered by the FAA's Office of Civil Aviation Security. The Commission recommended that airport operators deny employment to individuals convicted of certain crimes to be specified by Congress. The Commissions's recommendations formed the basis of the Aviation Security Improvement Act of 1990, Public Law 101-604 (the Aviation Security Improvement Act or the Act).

Section 105(a) of the Aviation Security Improvement Act amends section 316 of the Federal Aviation Act of 1958 (FAA Act) by adding a new subsection "(g)," captioned "Air Carrier and Airport Security Personnel." This subsection directs the FAA Administrator to promulgate regulations that subject individuals with unescorted access to U.S. or foreign air carrier aircraft, or to secured areas of U.S. airports served by air carriers, to employment investigations and criminal history record checks. The Act requires the Administrator to prescribe procedures for taking fingerprints and establish requirements to limit the dissemination of criminal history information received from the Federal Bureau of Investigation (FBI).

While the Act did not specify an implementation deadline, the Department of Transportation Appropriation Act of 1992 (Pub. L. 102-143) directs the FAA to issue regulations on the investigation requirement within 180 days after its enactment. The Congressional deadline for issuing the final rule is April 24, 1992. This law requires that processing of these investigations begin no later than 60 days after the issuance of final regulations.

The FAA proposes to implement the legislative mandate of the Aviation Security Improvement Act by amending parts 107 and 108 of the Federal Aviation Regulations (FAR), 14 CFR parts 107 and 108. The proposed regulations add a requirement for

investigation into the background of individuals with unescorted access to the security identification display area (SIDA) of U.S. airports. The SIDA is "any area identified in the airport security program as requiring each person to continuously display on their outermost garment, an airport-approved identification medium unless under airport-approved escort" (14 CFR 107.25(a)). This proposal takes into account recommendations provided by the Policy and Procedures Subcommittee of the FAA's Aviation Security Advisory Committee (ASAC).

Discussion of Proposed Rule

General

Part 107 of the FAR contains security requirements for airport operators. Part 107 addresses access control, law enforcement support, and submission of airport security programs for FAA approval. Part 108 prescribes security rules for U.S. air carriers. In the preamble to this Notice, the use of the term "air carrier" refers to U.S. air carriers only. As discussed below, employees of foreign air carriers would be addressed through requirements proposed under part 107. Throughout the preamble, references to "airport operator" apply to "air carrier" unless otherwise specified, since both operators and carriers would be authorized to conduct the investigations.

The Act does not prohibit employment of disqualified individuals. Rather, the Act prohibits any individual convicted of specified crimes from unescorted access to secured areas of a U.S. airport or U.S. and foreign air carrier aircraft.

The FAA proposes to amend Parts 107 and 108 to require criminal history record checks to determine whether an individual may be authorized to have unescorted access to the SIDA. This proposal, like the Act, also applies to individuals permitted to authorize others to have unescorted access to the SIDA. The requirement is limited to individuals directly responsible for authorizing unescorted access. This includes individuals performing the required investigations and individuals issuing the credentials for unescorted access privileges.

The proposed rule also codifies into regulatory requirement pre-existing airport operator and air carrier security program language on the conduct of employment verifications for individuals with unescorted access privileges.

Under the terms of the Act, both the airport operator and air carrier may be granted authority to perform criminal history record checks. The FAA proposes that the airport operator be responsible overall for ensuring that such checks have been performed for all individuals who have, or who may authorize others to have, unescorted SIDA access. This does not mean that the airport operator must perform the checks in all cases. Section 107.31(e) of the proposed rule permits the airport operator to accept certification from an air carrier that the carrier has performed a criminal history record check for carrier employees. Under this section, the airport operator would be responsible for having certification on file that the carrier has performed the check. The airport operator's acceptance of this certification would be deemed to be compliance with its obligations. The air carrier could be subject to FAA enforcement action if it falsely certified that it had performed the checks.

There are two situations where an air carrier would certify to an airport operator that it has performed the record check. In the first case, the carrier must perform the check for employees (such as flight crew members) who are issued identification by the air carrier that is accepted by an airport operator for access to the SIDA. The carrier would certify to each airport operator who accepts the identification that the check had been performed as part of the program for issuing such identification. One certification would cover the entire program and would not include individual names.

In the second case, for air carrier employees issued identification by an airport operator, the carrier could certify to the airport operator that the check had been performed for named individuals. These individuals could then receive airport-issued identification authorizing SIDA access at that airport. However, the proposed rule would permit the air carrier and the airport operator to determine which one of them would perform the checks for air carrier employees issued airport identification. Whichever one performs the check would be responsible for ensuring that it is done in accordance with these proposed rules.

Section-by-Section Analysis

Section 107.31 Unescorted Access Privilege

Section 107.31(a) Applicability

The FAA is proposing that individuals who have, or who may authorize others to have, unescorted access to the security identification display area (SIDA) identified in the airport security program as required by FAR § 107.25 would be subject to the investigation process.

The SIDA generally would include the secured area of an airport as defined under § 107.14, and the portions of an airport where U.S. and foreign air carrier aircraft operate. For airports which may not be required to define a SIDA, the investigation requirement would apply to areas identified in the airport security program that are controlled for security purposes.

The use of the term "SIDA," an area which the airport operator is required to define in its security program, would facilitate implementation of the Act's investigation requirements. Because individuals with unescorted access to the SIDA must display an airport-approved identification, the background check requirements can be incorporated into the review process for approval and issuance of such identification. The issuance or denial of identification media would serve as a control on the implementation of the requirement from a practical and enforcement standpoint.

Section 107.31(b) Types of Checks Required

Two types of investigations are proposed: (1) A 5-year employment and reference verification; and (2) a 10-year criminal history record check. The existing employment and reference verifications would now be required by regulation.

The 10-year criminal history record check is mandated by the Aviation Security Improvement Act. Individuals whose record shows a conviction during the previous 10 years for a crime listed in the regulations would not be permitted to have, or authorize others to have, unescorted access to the SIDA. The 10-year period covered by the investigation is measured from the date the investigation was initiated by the airport operator, *i.e.*, the date the fingerprints were taken.

As contemplated in the Act, the FAA's proposal limits the criminal history record check to the FBI's national criminal history record filing system. However, there is a concern that the FBI's records may not be complete and current in all cases. The FAA seeks comments on the desirability of augmenting the proposed FBI checks. For example, the FAA could require routine checks of law enforcement records in the State or local area where the individual resides, or has resided for a specific time, or the area where employment is being sought. Comments on the necessity, practicality, cost and additional benefit, if any, of such a requirement are invited.

The FAA is proposing that mandatory disqualifying convictions under the

regulation be limited to the crimes listed in the Aviation Security Improvement Act. The crimes are: forgery of certificates, false marking of aircraft and other aircraft registration violations; interference with air navigation; improper shipment of a hazardous material; aircraft piracy; interference with flight crew members or flight attendants; commission of certain crimes aboard aircraft in flight; carrying weapons or explosives aboard aircraft; conveying false information and threats; aircraft piracy outside the special aircraft jurisdiction of the United States; lighting violations in connection with transportation of controlled substances; unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements; destruction of an aircraft or aircraft facility; murder; assault with intent to murder; espionage; sedition; kidnapping; treason; rape; unlawful possession, sale, distribution, or manufacture of an explosive or weapon; extortion; armed robbery; distribution of, or intent to distribute, a controlled substance; and conspiracy to commit any of these criminal acts.

The FAA invites comments on the possible expansion of the list of disqualifying crimes to include, for example, those related to arson, possession or use of controlled substances, or any other crimes not named in the Act that may be relevant to the determination process. The FAA also seeks comments on whether a person found not guilty by reason of insanity for any of the disqualifying crimes should not be authorized for unescorted SIDA access.

The Act does not address the discretion of airport operators or air carriers to consider convictions or arrests for crimes other than those listed in the Act. The FAA does not propose to require that the criminal history records received from the FBI be screened to delete all information other than convictions for the enumerated crimes. Airport operators may find the complete record relevant to the access determination. Employers frequently require job applicants to disclose all criminal convictions on application forms. In addition, they may already obtain criminal history records from state or local sources for their employees. The FAA's proposed rule would not limit the discretion of airport operators and air carriers to review an individual's complete FBI criminal history record, and take appropriate action in accordance with applicable law and labor agreements.

However, the FAA recognizes the argument that the records could be screened to delete information other than convictions for the enumerated crimes. Individuals who will be affected by the proposed rule, especially those who are currently employed in positions that require unescorted SIDA access, may assert a privacy interest in limiting the basis of the access determination to the specific crimes Congress has determined should result in mandatory disqualification. Comments are invited on the effect this would have on security, along with the methods, procedures and costs that would be associated with developing a system to limit the criminal record information provided to the airport operator. Comments are also invited on whether the list of disqualifying crimes would have to be expanded if screening were required.

Section 107.31(c) Escorted Access

An individual who is not permitted unescorted access to the SIDA would have to be under escort to be present in the SIDA. The FAA proposes to define "escorted access" generally as continuous surveillance by an individual who has unescorted access privileges. Because of the confidential nature of escorting procedures, and the specific layout and operational considerations at each airport, the airport operator will be required to define the specific escort procedures that are acceptable for continuous surveillance in the SIDA in its FAA-approved security program.

Section 107.31(d) Exceptions to the Investigation Requirements

Government Employees

Under the proposed rule, no additional background checks would be required for Federal, state and local government employees who have been subject to a check of the FBI's criminal history file records as a condition of employment. For example, the airport operator could accept previous criminal history record checks of U.S. Customs Service officers and local law enforcement officers. Accepting previous criminal history checks from government employees avoids a redundant check. In addition, the checks performed for many Federal, state and local government employees may exceed those proposed in this rule.

Foreign Air Carrier Employees

The Act applies to individuals with authority for unescorted access to foreign aircraft. Thus, the FAA is proposing that foreign nationals and U.S. citizens working in the United States for a foreign air carrier would be subject to investigation under this rule prior to receiving airport issued identification for SIDA unescorted access. The airport operator or its designee will be responsible for these investigations pursuant to the proposed amendments to Part 107.

However, the FAA is proposing an alternate security arrangement for foreign air carrier flight crewmembers (*i.e.*, captain, second-in-command, flight engineer, or company check pilot) who are not otherwise issued airport identification. Alternate security arrangements are permitted by the Act and the FAA contends that there is a low probability of finding a disqualifying conviction for a foreign national through a check of FBI records, which routinely include only convictions entered in the U.S.

Under an alternate system, foreign air carrier flight crewmembers could be excluded from the investigation requirements of the proposed rule, provided that their access is restricted under an approved airport security program. An acceptable alternate access limitation under an airport security program could be to permit foreign air carrier employees who are performing the duties of a flight crewmember to have unescorted access limited to the footprint of their aircraft (*i.e.*, the aircraft and the immediate surrounding ramp area). To access any other aircraft or areas of the airport, the foreign air carrier flight crewmember would require an escort.

Transfer of Privileges

The FAA proposes that an individual who has been investigated and has unescorted access privileges may transfer that privilege to another airport by obtaining certification that the checks were performed. This proposal addresses flight crewmembers or other employees of airport tenants with unescorted access privileges who change their duty station or employer and require unescorted access. In such instances, the individual must have been continuously employed in a position requiring unescorted access since being qualified for unescorted SIDA access under this proposed rule.

No Area Exceptions

In its proposal, the FAA has chosen not to exclude any areas of SIDA from the criminal history check requirement. While the FAA is concerned about the confusion that may result from excluding any portions of the SIDA from this requirement, and the practical implementation of any such exclusion,

comments are invited on this issue; comments are specifically invited on the methods and procedures that could be used if exceptions were permitted for some portions of the SIDA. For instance, should the FAA approve alternate security systems for individuals whose unescorted access is limited to portions of the SIDA separated from the operations of air carriers? The criteria that the FAA could use to analyze the effectiveness of an alternate system (e.g., a physical separation of an air cargo carrier facility from an air carrier passenger area by distance, by a barrier or by the use of access controls required by § 107.14) should also be included in any comments on an allowable exclusion.

Section 107.31(e) Investigations by Air Carriers and Airport Tenants

The FAA is proposing that an airport operator may accept written certification from an air carrier that the investigations were performed for its employees. Receipt of certification would satisfy the airport operator's obligation under the proposed rule.

The airport operator may accept a general certification that the checks were performed as part of the process when an air carrier issues identification media to its employees. When an air carrier employee is investigated by the carrier for receipt of airport-issued identification media, the airport operator must receive certification for each employee prior to issuing identification media.

The proposal also includes a provision permitting an airport operator to accept written certification from airport tenants that the 5-year reference and employment investigation has been performed. In many cases, these airport tenants currently perform the 5-year employment verification, and the FAA proposes that this practice continue. However, the criminal history record check would be the responsibility of the airport operator for all airport tenants other than U.S. air carriers. Under the Act, only airport operators and air carriers have the authority to conduct criminal history record checks. (Tenants, other than U.S. air carriers, may include employees of airline food service companies, employees of fixed base operators and employees of foreign air carriers receiving airport identification.)

Section 107.31(f) Appointing Contact

Under the proposal, the airport operator would appoint a person responsible for reviewing the results of the criminal history record check, and determining an individual's eligibility for unescorted access privileges. The designated person would also serve as the liaison in situations where the individual disputes the results of the criminal history record check that revealed information that would disqualify him or her from unescorted access. The FAA seeks comments on the appropriateness of assigning this responsibility to the Airport Security Coordinator.

Section 107.31(g) Designating an Entity and Individual Notification

The FAA proposes to allow the airport operator to designate an outside entity to conduct the criminal history record check required by the rule. The FAA has chosen not to develop or require the use of a single entity to batch requests from airport operators and be the designee. Rather, the FAA proposes to require the airport operator to be responsible for compliance with this section, even when the airport operator designates an outside entity to perform the check. The FAA expects that airport operators will choose to act jointly to improve efficiency in processing requests for criminal history checks.

The FBI has indicated the possibility of a fee differential for airports that submit relatively few requests. Currently, the FBI charges more for non-batched requests than batched requests. In addition, an entity batching requests can process a large number of requests for criminal history record checks more efficiently than multiple operators. To take advantage of the economies of scale, the FAA anticipates that many airport operators will utilize the services of entities able to batch their respective requests for criminal history record checks. In any case, the airport operator will be responsible for ensuring that the check is performed in accordance with the regulations.

Individuals covered by the proposed rule would be notified of the requirement for the investigations prior to the initiation of the checks.

Section 107.31(h) Fingerprint Processing

The proposal includes procedures for collecting fingerprints and requires that one set of legible fingerprints be taken on a card acceptable to the FBI. The airport operator or its designee could choose to have the airport law enforcement officers take the fingerprints or have another entity perform the function. The FAA also proposes to require that the identity of the individual be verified at the time the fingerprints are taken. The individual would present two forms of identification, one of which would have to bear the photograph of the individual. A current driver's license, military identification and passport are examples of acceptable identification. There is also a proposed requirement that the fingerprint cards be handled and shipped in a manner that would protect the privacy of the individual.

Section 107.31(i) Making the Access Determination

The FAA is concerned about individuals whose record shows an arrest for which there has been no disposition (e.g., the case is pending). The FAA is proposing that the airport operator or its designee investigate arrests for any of the enumerated offenses for which no disposition has been recorded in the FBI's records. This investigation would be conducted with the affected individual and the jurisdiction where the arrest took place in order to determine whether a disposition has been recorded in that jurisdiction but not forwarded to the FBI.

In determining whether to grant unescorted access to an individual with an arrest for one of the disqualifying crimes but no disposition, the airport operator should weigh all relevant information available on the individual, including the results of the 5-year employment and reference verification. The employer should then apply its own personnel decision guidelines in making the determination for unescorted access; the FAA does not propose to require specific action under these circumstances.

Section 107.31(j) Availability and Correction of FBI Records and Notification of Disqualification

The proposed rule requires the airport operator or its designee to notify an individual at the time the fingerprints are taken that he or she would be provided, upon written request, a copy of the results from the FBI criminal history record check, prior to rendering the access decision. All individuals subject to an unescorted access determination have the option to receive a copy of the results from the criminal history record check.

In instances where an individual's criminal history record check reveals information that would disqualify him or her from unescorted access, the FAA is proposing that the airport operator or its designee would be required to advise the affected individual of the presence of disqualifying information. The airport operator or its designee would also be required to provide the individual with a copy of the FBI criminal history check

results. The individual has the right to contact the FBI, not the airport operator, to challenge the accuracy of the record. Since the FBI maintains the records and has established procedures to address possible inaccuracies, it is appropriate to direct any requests for correction solely to the FBI. The proposed rule does, however, require the individual to notify the airport operator or its designee within 30 days of receipt of the record of the intent to correct any information believed to be inaccurate. If the airport operator or its designee is not notified by the individual within the 30 day period, the airport operator may make the final access decision.

The affected individual would be given one year from the date the individual was notified of the presence of disqualifying information to provide a revised FBI criminal history record information to the airport operator or its designee. This process protects the individual's right to correct information that would affect the determination for unescorted access privileges.

If an individual is disqualified for unescorted access privileges based on the findings of the criminal history record check, the FAA is proposing that the individual be notified that the determination has been made.

Section 107.31(k) Individual Accountability

The Act does not require a recurrent check, and the FAA does not propose to require such checks by regulation. The FAA solicits comments on the need, utility and expense associated with a recurrent check requirement.

Instead of a requirement for recurrent checks, the FAA proposes to require that each affected individual report to the airport operator convictions for any disqualifying crimes that may occur after the completion of the 10-year criminal history record check. The individual would also be required to surrender his or her SIDA identification media to the airport operator. Any individual violating this provision by failing to report a disqualifying crime or surrendering SIDA identification media under this section would be subject to possible FAA enforcement action, including civil penalty liability. The FAA is also exploring with the FBI other systems that may be developed to communicate convictions for individuals with authority for unescorted access.

Section 107.31(l) Limits on Dissemination of Results

As required under the Act, the criminal history record check results should be used only to determine whether to grant unescorted access privileges to the SIDA. The proposed rule also includes limits on the dissemination of the criminal history information, as required by the Act. The FAA proposes to limit distribution of such information to:

(1) The individual to whom the record pertains or someone authorized by that person;

(2) The airport operator or entity designated by the airport operator; and

(3) Individuals designated by the Administrator (e.g., FAA special agents).

Section 107.31(m) Record Keeping

The proposed rule requires the airport operator to establish a record indicating that a criminal history record check was performed for individuals covered by the requirement. To protect the privacy of the individual and limit the use of criminal history record information, the FAA is proposing that the results of the check received from the FBI be destroyed after the determination has been made. The procedures for destroying the results must be acceptable to the Administrator. This would include shredding, burning or other acceptable means of destroying confidential personnel records.

The airport operator would be required to maintain a written record for all individuals permitted unescorted access. The FAA proposes that this record should be retained for 180 days after termination of that individual's authority. The record should be correlated to payment records for specific groups of individuals checked by the FBI and must include, at a minimum, the following:

(1) The date the fingerprints were taken;

(2) The date the fingerprints were sent to the FBI;

(3) The date the results of the fingerprint check were received back by the airport operator;

(4) The outcome and the date when the determination was made; and

(5) Any other information that the Administrator determines is necessary.

Section 107.31(n) Schedule for Implementation

The FAA is proposing two phase-in schedules for the proposed regulatory requirements. The implementation schedules would apply to both airport operators and air carriers.

For airports where at least 25 million persons are screened annually or airports that have been designated by the Assistant Administrator of Civil Aviation Security:

No later than 60 days after the effective date of the final rule, these airports would be required to implement § 107.31 for all new requests for unescorted access privileges. Until the investigation process is complete, individuals newly requiring access to the SIDA would be escorted by an individual who is authorized to have unescorted access.

By December 31, 1992, the fingerprints of at least 50 percent of all individuals who have, or may authorize others to have, unescorted access privileges would have to be submitted to the FBI. By June 30, 1993, the fingerprints of all individuals who have, or may authorize others to have, unescorted access would have to be submitted to the FBI.

For individuals who were authorized to have unescorted access prior to the effective date of the final rule, the 5-year employment and reference verification would not need to be repeated if it has already been performed. Individuals who were hired before the effective date of the security program amendment requiring employement verification (November 1, 1985), and who have been continuously employed since that date, also would not be subject to this investigation.

The deadline for completing the checks for all covered individuals would be January 1, 1994, unless otherwise specified in the airport security program. From that date forward, only individuals who have undergone the 5-year employment and reference check and 10-year criminal history record check could have, or could authorize others to have unescorted access to the SIDA.

For all other airports covered by the requirement:

The FAA is proposing that one year after the effective date of the final rule the airport operator must implement the 5-year employment and reference verification and 10-year criminal history record check for all new requests for unescorted access privileges. The existing 5-year employment and reference verification in the airport and air carrier security programs would remain in effect. Until the investigation process is complete, individuals newly requiring access to the SIDA would have to be escorted by an individual who is authorized to have unescorted access.

By December 31, 1993, the fingerprints of at least 50 percent of all individuals who have, or may authorize others to have, unescorted access would have to be submitted to the FBI. By June 30, 1994, the fingerprints of all individuals who have, or may authorize others to have, unescorted access would have to be submitted to the FBI.

For individuals who were authorized to have unescorted access prior to the

effective date of the final rule, the 5-year employment and reference verification would not have to be repeated if it has already been performed. Individuals who were hired before the effective date of the security program amendment requiring employment verification (November 1, 1985), and who have been continuously employed since that date, also would not be subject to this investigation.

The deadline for completing the checks of all covered individuals would be January 1, 1995, unless otherwise specified in the airport security program. From that date forward, only individuals who have undergone the 5-year employment and reference verification and 10-year criminal history record check could have, or could authorize others to have, unescorted access to the SIDA.

Section 108.33 Unescorted Access Privilege (Air Carrier Employees)

The FAA is proposing that air carriers be authorized to perform for their employees the background investigations required of airport operators under proposed § 107.31. The air carrier may provide a general certification to an airport operator pursuant to § 107.31(e) that the checks were performed as part of the program when an air carrier issues identification media to its employees. When an individual air carrier employee is investigated by the carrier for receipt of airport-issued identification media, the air carrier must provide the airport operator with certification for each employee. For identification issued to an air carrier employee by the airport operator, the investigation may be performed by either the air carrier or airport operator. However, since the air carrier is responsible for performing a 5-year employment and reference check for its employees, it is logical that in most cases the 10-year criminal history record check would also be perfomed by the air carrier.

The proposed requirements for performing the checks by an air carrier are identical to those required of an airport operator in all major respects.

The FAA is proposing that the investigations for which the air carrier is responsible be phased-in according to the airport operator's implementation schedule.

Discussion of Issues Related to U.S. Customs Service

Since 1985, the U.S. Customs Service has required a background investigation of individuals with access to the Customs security areas of U.S. airports 19 CFR 122.181–188. This investigation includes a FBI criminal history record check and further background investigation by Customs to determine whether the individual should be issued a seal by Customs allowing access to the Customs security area. The Customs Service requires denial of access authority for any individual convicted of a felony or convicted of a misdemeanor involving theft, smuggling or any theft connected crime, or evidence of a pending or past investigation which establishes criminal or dishonest conduct, or a verified record of such conduct. In addition, when, in the judgment of the Customs District Director an individual would endanger the revenue or security of the Customs security area, he or she will also be denied access authority. The Customs Service regulation also specifies conditions for the revocation or suspension of access, which are the same conditions under which an individual will be denied initial access authority.

On December 11, 1991, the Customs Service issued a notice of proposed rulemaking (56 FR 64580) in which it proposed to charge $19.55 per person for the FBI fingerprint processing required to obtain access authority for Customs security areas at U.S. airports. Currently, Customs does not charge for FBI fingerprint processing.

The FAA invites comments on whether and what methods the criminal history record check required by Customs can be coordinated with the requirements of this proposed rule to minimize the burden on the individual, the airport operator and the air carrier.

Specifically, the FAA invites comments on whether the criminal history record check performed by Customs should be treated as acceptable under the proposed rule for SIDA access. If this concept were adopted, the airport operator could accept the previous criminal history record check of the Customs Service and authorize the individual for unescorted access. Accepting the previous background investigation by Customs would avoid an arguably redundant check because the investigation performed by Customs includes a review of the individual's FBI criminal history record and is based on more restrictive disqualifying criteria (*i.e.*, any felony convictions, or misdemeanor convictions for theft) than the FAA has proposed in this NPRM. Failure to obtain access authority to the Customs area would not preclude an individual from obtaining unescorted access to the SIDA under the FAA proposed rule. The Customs check is relevant to the determination for SIDA access only in cases where access was granted by Customs. If the FAA decides that individuals having existing Customs access authority meet the requirements of FAA's proposed criminal history record check, how should it be documented? Approximately what percentage of individuals requiring SIDA access authority currently have been approved for Customs security area access authority?

For individuals subject to the FAA required criminal history record check who are not currently authorized for access to Customs security areas, should the FAA establish procedures to permit the release of the FBI criminal history record from the airport operator or air carrier to the Customs Service? The limitations on the use of the criminal history record check results contained in the Act would require the consent of the individual applying for unescorted access authority to permit the results to be transmitted to Customs. Providing the criminal history record to Customs generally would preclude the need for an individual to be subject to a duplicative FBI criminal history record check by the Customs Service. If such a release to Customs is permitted with the individual's consent, the FAA would consider the physical release of the FBI criminal history check results as an acceptable disposal of the record as required under the proposed rule.

Regulatory Evaluation Summary

This section summarizes the regulatory evaluation prepared by the FAA. The regulatory evaluation provides more detailed information on estimates of the potential economic consequences of this proposal. This summary and the evaluation quantify, to the extent practicable, estimated costs of the rule to the private sector, consumers, and Federal, State, and local governments, and also the anticipated benefits.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, or a significant adverse effect on competition.

The FAA has determined that this proposal is not "major" as defined in the executive order. Therefore, a full regulatory impact analysis, which includes the identification and evaluation of cost-reducing alternatives to the proposal, has not been prepared. Instead, the Agency has prepared a more concise document termed a "regulatory evaluation," which analyzes only this proposal without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains an initial regulatory flexibility determination required by the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) and an international trade impact assessment. Any person who desires more detailed economic information than this summary contains should consult the regulatory evaluation contained in the docket.

Costs of the Proposed Amendment

The costs associated with this proposed rule consist of administrative and processing costs for airport operators and air carriers and the amount charged by the FBI for criminal history record checks for individuals covered by the investigation requirements. Various options are available to the aviation industry to implement this proposal. This analysis estimates a range of costs based on the type of processing selected by the affected entities. The discounted costs of this proposal vary from a low of $46 million under a fully-centralized system to a high of $66 million under a decentralized system over the period from 1992 through 2001.

The variation in costs reflects the differences in administrative processing methods. Centralized processing imparts economies of scale due to the division of labor, specialization of equipment, and reduced fixed costs.

Number of Affected Individuals

The FAA estimates that in 1991, 475,000 persons had authority for unescorted access at the 443 airports covered by part 107. The FAA assumes a 4 percent growth rate per year of individuals with unescorted access privileges to the SIDA based on the forecasted growth in passengers and subsequent need for additional employees. The estimated number of total badges and turnover rate are based on data from three sources: Airport Operators Council International, American Association of Airport Executives, and an FAA econometric estimate of airport employment.

According to data supplied by the aviation industry, the turnover rate for individuals authorized for unescorted access to the SIDA is estimated to be 35 percent per year. Based on the current total SIDA unescorted access population of 475,000, the estimated turnover rate would be approximately 165,000 individuals per year. Assuming a 4 percent growth in airport and air carrier employment per year over the 10-year period and a constant turnover rate, the annual number of individuals with new authority for unescorted access privileges will grow to 235,000 by the year 2001. Over the decade, the average annual number of criminal history record checks for new authorizations for SIDA access will be 198,000 per year.

Adding the individuals who will be seeking new authority to the current population of individuals holding unescorted access authority to the SIDA (individuals currently holding SIDA unescorted access will be phased-in under the requirement of the proposed rule) results in an average number of record checks over the next 10 years of 214,000 per year.

Processing Methods

The estimated total cost per record consists of three components: The average per record cost of any processing system, the amount charged by the FBI for criminal history record checks, and the cost of airport and air carrier staff time.

Fully-Centralized Processing

A fully-centralized processing system means that one entity completes most aspects of the criminal history records check except for making the final unescorted access determination and maintaining the FAA-mandated records. An entity providing full central processing would receive requests from airports and air carriers for background checks. The entity would verify the quality of the fingerprints and batch those requests, and route the fingerprint cards to the FBI. After the FBI completes the search of its index system, the results would be returned to the entity providing the central processing, which, in turn, would screen the results and forward the results to the airport operator or air carrier. Under a fully-centralized system, an entity providing the service would also follow up on arrests for disqualifying convictions for which there is no disposition. Economies of scale lower the average cost per record in a fully-centralized processing system since one staff person can deal with many background checks. In addition, the start up and other administrative costs can be distributed over the large number of record checks.

The average cost per record for a fully-centralized processing system is $34. This is calculated based on the following:

(1) The average record costs for a fully-centralized processing system is calculated as its annual cost ($895,000, which includes staffing and overhead) divided by the average number of record checks each year (214,000), resulting in an average $4 cost per record.

(2) The amount charged by the FBI for criminal history record checks is $21 per record for batched requests.

(3) The averge regulated party staff time (airport operator and air carrier) per record is 20 minutes at an average cost of $9 per record.

The discounted cost for a fully-centralized processing system from 1992 to 2001 is $46 million.

Partially-Centralized Processing

A partially-centralized system would reduce some of the administrative duties for airport operators and air carriers. Under this arrangement, one or more entities could provide partially centralized processing and would verify the quality of the fingerprints and batch the requests for FBI criminal history record checks. The FBI would send the results of the record check to the entities providing partially-centralized processing, which would in turn mail the record to the airport operator or air carrier.

The average cost per record for a partially-centralized processing system is $41. This is calculated based on the following:

(1) The average record costs for a partially-centralized processing system is calculated as its annual cost ($296,000, which includes staffing and overhead) divided by the average number of record checks each year (214,000), resulting in an average $1 cost per record.

(2) The amount charged by the FBI for criminal history record checks is $21 per record for batched requests.

(3) The average regulated party staff time (airport operator and air carrier) per record is 40 minutes at an average cost of $19 per record.

The discounted cost for a partially-centralized processing system from 1992 to 2001 is $52 million.

Decentralized System

In a decentralized system, each airport operator and air carrier would perform all administrative duties related to the criminal history record check. The requests would be mailed directory to the FBI and the FBI would send the results of the criminal history record check directly to the airport operator or air carrier. This analysis assumes that without a fully or partially-centralized

processing system, airport and air carrier officials would use a total of one hour to fingerprint the applicant, to complete the appropriate form, to record the application, to evaluate the FBI report and follow-up on arrests for disqualifying convictions with no record of dispositon.

The average cost per record for a decentralized processing system is $51. This is calculated based on the following:

(1) This is a decentralized system, thus, there are no central system processing costs.

(2) The amount charged by the FBI for criminal history record checks is $23 per record for unbatched requests.

(3) The average regulated party staff time (airport operator and air carrier) per record is 60 minutes at an average cost of $28 per record.

The discounted cost for a decentralized processing system from 1992 to 2001 is $66 million.

Escorting Costs

The proposed rule provides for escorted access to the SIDA for individuals not authorized for unescorted access. The FAA has included this provision in the proposal to provide a method for employers to utilize the services of individuals while the criminal history record check is being completed. Based upon an FBI statement of its ability to process the checks and administrative handling and processing times, the FAA estimates that it may take from 30 to 60 days (or more) from the time the fingerprints are taken until a final determination can be made. However, in instances where an individual's FBI criminal history record check reveals information that would disqualify him or her from unescorted access, and the affected individual challenges the accuracy of the record to the FBI, the processing time would increase.

The cost estimates for the proposed regulations do not attach a cost for escorting individuals whose criminal history record check is not yet complete. The FA does not anticipate additional hiring costs associated with escorting individuals while the criminal history record check is pending. The proposal would allow an individual to be escorted by an individual previously authorized for unescorted access privileges.

In most, if not all, situations where an individual is awaiting completion of the criminal history record check, the individual will be in training, working under a closer degree of supervision or working with others who have unescorted access authority so that the task of escorting can be incorporated into the work environment. The proposed regulation does not require an air carrier or airport operator to appoint individuals whose sole function would be to serve as dedicated escorts. The FAA solicits comments on any costs for providing escorted access until the criminal history record check is completed.

The incremental costs of the rule could be reduced if the FAA decides in the final rule that individuals who currently have access to Customs security areas of U.S. airports meet the requirements of the FAA's proposed criminal history records check. Customs estimates that it submits to the FBI about 60,000 fingerprint cards annually for its airport security program. Depending on the proportion of these employees who have unescorted SIDA access but for whom the criminal history record check has not been completed, the number of individuals who require FAA checks could be correspondingly reduced.

The costs could also be reduced if the FAA determines that it would be appropriate to exclude any portion of the SIDA from the criminal history check requirement. As noted in the Section-by-Section Analysis (Section 107.31(d)), comments are invited on the methods and procedures that could be used if any such exclusions were permitted.

Finally, air carriers and airport operators could reduce the costs of implementing the final rule by deciding that some proportion of employees who currently have unescorted access to the SIDA will not require such access after the final rule takes effect.

Benefits of the Proposed Amendment

This proposed rule would augment other recent FAA security regulations by ensuring that individuals with unescorted SIDA access authority are investigated for records of conviction for certain disqualifying crimes. Each improvement of this network further enhances security in the U.S. civil aviation system.

The FBI estimates that approximately 10 percent of criminal history record checks result in a "hit," *i.e.*, a record of arrest. A recent FAA sample of 120 FBI criminal records of individuals would be covered by the proposed rule indicated that 16 percent (of the 10 percent that resulted in a "hit") had been convicted of crimes that would disqualify them for unescorted SIDA access privileges under the proposed rule. The remaining 84 percent had been arrested for or convicted of other crimes not considered to be disqualifying under the Act, such as possession of a controlled substance, driving while intoxicated, and petty theft. These data suggest that an estimated 1.5 percent, or approximately 3,000 individuals a year, would be disqualified from unescorted SIDA access under the proposed rule.

The U.S. aviation industry has not experienced incidents in which there was a direct relation between disqualifying offenses and serious security incidents, such as a terrorist bombing or hijacking. However, the legislation indicates Congress' concern that an individual's criminal history could show a disposition to engage in such conduct in the future, which could result in a serious security incident.

United States-registered air carrier operations have experienced 234 terrorist or other criminal events over the past 30 years resulting in a loss of 403 lives. These terrorist and other criminal acts included 221 hijackings and 13 bombings. At this level of criminal activity, the loss of one airplane within a 10-year period due to criminal activity is probable.

The potential value of avoiding a loss of this type is measured by the value of avoided fatalities and aircraft replacement costs. The FAA currently uses a value of $1.5 million to represent statistically a human fatality avoided.

The FAA has estimated that the destruction of a Boeing 727 would, on average, result in a death toll of 91 persons. The estimated benefit of avoiding these deaths is $137 million (excluding the possible loss of life on the ground). The replacement value of a Boeing 727 in 1990 dollars is approximately $6 million. The present value of such a disaster is valued at $92 million from 1992 through 2001. On the other end of the scale, the loss of a DC–10 would have a present value of $198 milion over the same time period.

Comparison of Cost and Benefits

At the 443 airports in the U.S. aviation security network, nearly 500,000 individuals have unescorted access to airport SIDAs. The proposal would require airports and air carriers to perform an employment history verification and a criminal history record check for individuals with unescorted access to the SIDA. These checks would cost, on average, between $34 and $51 each. The total cost over the next decade including the phase-in for individuals currently holding unescorted access authority ranges from $46 to $66 million. The cost of this rule would be exceeded by the benefit of preventing the destruction of one airplane.

International Trade Impact Assessment

The proposed rule would exempt foreign air carrier flight crewmembers from the employment and criminal history background checks provided they are covered by acceptable alternate access limitations. This exemption is proposed, in part, because the FBI does not routinely have records of convictions for crimes committed outside the United States. However, foreign nationals and U.S. citizens working in the United States for foreign air carriers who require unescorted SIDA access would be subject to these checks. Thus, the proposal could impose a slight trade disadvantage on domestic air carriers since they would have to incur the cost of the records check for flight crewmembers but foreign air carriers would not. However, the FAA believes that this extra cost is negligible. The additional annual cost per enplanement would be at most one half of one cent. Hence, domestic firms would not incur a discernible competitive trade advantage or disadvantage in the sale of United States aviation products or services in foreign countries.

Initial Regulatory Flexibility Analysis

Section 603(b) and 603(c) of the Regulatory Flexibility Act of 1980 (RFA) ensure that government regulations do not needlessly and disproportionately burden small businesses. The RFA requires FAA to review each rule that may have "a significant economic impact on a substantial number of small entities."

FAA criteria set a "substantial number" as not less than 11 and more than one-third of the small entities subject to the amendment. About 220 small airports will be affected by this rule. The threshold for small airports are those operated by towns, cities, or counties whose populations are each less than 50,000. The criteria define a threshold value for "a significant economic impact" as $6,950 for these airports.

Of the 220 airports which qualify as small entities, only four would incur costs that exceed the threshold. These costs are incurred because of personnel turnover. Thus, the proposed rule would not impose significant costs on a substantial number of small airports.

Air carriers will also incur some additional costs as a result of the proposed rule. The threshold size for air carriers is nine aircraft owned, but not necessarily operated, by the certificate holder; and the cost threshold ranges from $51,000 for scheduled operators with at least one airplane in their fleet having fewer than 60 seats to $107,900 for scheduled carriers whose entire fleet has a seating capacity of more than 60 seats.

The record checks of new employees would result in additional costs to small entities in these two groups. To exceed the threshold, a scheduled Part 135 operator with 9 or fewer aircraft would have to employ about 3,000 employees (assuming a 35 percent turnover rate); a Part 121 operator would have to employ 6,400 employees. However, small operators do not employ even a tenth of these numbers, and many large operators do not employ this threshold number. For example, Iowa Airways, which operates 5 aircraft (and is therefore a small entity) employs only 60 persons.

Hence, FAA has determined that this proposal will not have a significant impact on a substantial number of small entities.

Federalism Implications

The proposed rule would not have substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Most airports covered by the NPRM are public entities (state and local governments). However, relatively few of the covered individuals are actually employed by the airport operator, and it is anticipated that most of the costs for the required investigations would be borne by the airport tenants. Thus, the overall impact is not substantial within the meaning of Executive Order 12612. Therefore, in accordance with that Executive Order, it is determined that this proposal would not have sufficient Federal implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

The reporting and recordkeeping requirement associated with this rule is being submitted to the Office of Management and Budget for approval in accordance with 44 U.S.C. 35 under *Dot No:* 3603; *OMB No:* New; *Title:* Unescorted Access Privilege; *Need for Information:* To record employment, reference and criminal history record check as required by Public Law 101–604; *Proposed Use of Information:* To determine eligibility for unescorted access; *Frequency:* Recordkeeping; *Burden Estimate:* 49,500 hours annually; *Respondents:* Airport operators and air carriers; *Form(s):* None; *Average Burden Hours Per Respondent:* 86—The annual hours per recordkeeper depends on the number of employees in each operation. The estimate is 15 minutes per employee.; *For Further Information Contact:* The Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–4735, or Edward Clarke, Office of Management and Budget (OMB), New Executive Office Building, room 3228, Washington, DC 20503, (202) 395–7340.

Comments on these information collection requirements should be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for FAA. Comments submitted to OMB should also be submitted to the FAA docket.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Initial Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this proposed regulation is not major under Executive Order 12291. In addition, this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities under the criteria of the Initial Regulatory Flexibility Act. This Proposal is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). An initial regulatory evaluation of the proposal, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Parts 107 and 108

Airplane operator security, Aviation safety, Air transportation, Air carriers, Airlines, Security measures, Transportation, Weapons.

The Proposed Amendments

In consideration of the foregoing, the Federal Aviation Administration proposes to amend parts 107 and 108 of the Federal Aviation Regulations (14 CFR parts 107 and 108) as follows:

PART 107—[AMENDED]

1. The authority citation for part 107 is revised to read as follows:

Authority: Sec. 101, et seq., Pub. L. 101–604, 104 Stat. 3066; 49 U.S.C. 1354, 1356, 1357, 1358 and 1421; 49 U.S.C. 106(g).

2. Part 107 is amended by adding a new § 107.31 to read as follows:

§ 107.31 Unescorted access privilege.

(a) This section applies to all individuals who have, or may authorize others to have, unescorted access to the following areas:

(1) The security identification display area (SIDA) that is identified in the airport security program as required by § 107.25 of this chapter; or

(2) At airports that are not required to identify a SIDA under § 107.25, that portion of the airport where access is controlled for security purposes in accordance with the airport security program.

(b) Except as provided in paragraph (d) of this section, each airport operator shall ensure that no individual has, or may authorize others to have, unescorted access to the areas identified in paragraph (a) of this section unless:

(1) The individual has undergone verification of references and employment history for the 5 years preceding the date of the verification; and

(2) The individual's fingerprint and criminal history record maintained by the Federal Bureau of Investigation (FBI) establishes that within the past 10 years, ending on the date that the airport operator initiates the record check, there is no record of the individual's having been convicted in any jurisdiction of any of the following crimes enumerated in section 316(g)(3)(A)(ii) of the Federal Aviation Act of 1958, 49 U.S.C. App. 1357(g)(3)(A)(ii):

(i) Forgery of certificates, false marking of aircraft, and other aircraft registration violations;

(ii) Interference with air navigation;

(iii) Improper shipment of a hazardous material;

(iv) Aircraft piracy;

(v) Interference with flight crew members or flight attendants;

(vi) Commission of certain crimes aboard aircraft in flight;

(vii) Carrying weapons or explosives aboard aircraft;

(viii) Conveying false information and threats;

(ix) Aircraft piracy outside the special aircraft jurisdiction of the United States;

(x) Lighting violations in connection with transportation of controlled substances;

(xi) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements;

(xii) Destruction of an aircraft or aircraft facility;

(xiii) Murder;

(xiv) Assault with intent to murder;

(xv) Espionage;

(xvi) Sedition;

(xvii) Kidnapping;

(xviii) Treason;

(xix) Rape;

(xx) Unlawful possession, sale, distribution, or manufacture of an explosive or weapon;

(xxi) Extortion;

(xxii) Armed robbery;

(xxiii) Distribution of, or intent to distribute, a controlled substance; or

(xxiv) Conspiracy to commit any of the aforementioned criminal acts.

(c) An airport operator may permit an individual to have escorted access in accordance with the airport security program to the areas identified in paragraph (a) of this section. At a minimum, this escorted access shall consist of continuous surveillance by an individual who is authorized to have unescorted access.

(d) Notwithstanding the requirements of this section, an airport operator may authorize the following individuals to have unescorted access to the areas identified in paragraph (a) of this section:

(1) Employees of the Federal government or a State or local government (including law enforcement officers) who, as a condition of employment, have been subject to a FBI criminal history record check;

(2) Flight crew members of foreign air carriers covered by an alternate security arrangement in the approved airport operator security program; and

(3) An individual who has been continuously employed in a position requiring unescorted access since being authorized by another airport operator or air carrier pursuant to the requirements of paragraph (b) of this section.

(e) An airport operator will be deemed to be in compliance with its obligations under paragraphs (b)(1) and (b)(2) of this section, as applicable, when it accepts certification from:

(1) An air carrier subject to § 108.33 that the air carrier has complied with paragraphs 108.33(a)(1) and (a)(2) for named employees referred to an airport operator and for a program accepted by an airport operator; and

(2) An airport tenant other than a U.S. air carrier that the tenant has complied with paragraph (b)(1) of this section for its employees.

(f) The airport operator shall designate an individual to—

(1) Review the results of each criminal history record check and identify any disqualifying convictions; and

(2) Serve as the contact to receive notification from an individual applying for unescorted access of his or her intent to seek correction of his or her criminal history record with the FBI.

(g) The airport operator may designate an entity to perform the investigation required by paragraph (b)(2) of this section. Prior to commencing any investigation, the airport operator or its designee shall notify affected individuals of the requirement to undergo a criminal history record check.

(h) The airport operator or its designee shall collect and process fingerprints in the following manner:

(1) One set of legible and classifiable fingerprints shall be recorded on fingerprint cards approved by the FBI;

(2) The fingerprints shall be obtained from the individual under direct observation by the airport operator or its designee;

(3) The identity of the individual must be verified at the time fingerprints are obtained. The individual must present two acceptable forms of identification media, one of which must bear his or her photograph; and

(4) The fingerprint cards shall be forwarded to the Identification Division of the Federal Bureau of Investigation in a manner that protects the confidentiality of the individual's record.

(i) In conducting the criminal history record check required by this section, the airport operator or its designee shall investigate arrest information for the crimes listed in paragraph (b) of this section for which no disposition has been recorded.

(j) The airport operator or its designee shall:

(1) At the time the fingerprints are taken, notify the individual that a copy of the criminal history record received from the FBI will be made available if requested in writing.

(2) Prior to making a final decision to deny authorization for unescorted access, advise the individual that the criminal history record received from the FBI discloses information that would disqualify him or her from unescorted access authority and shall provide each affected individual with a copy of his or her record received from the FBI. The individual may contact the FBI to complete or correct the information contained in the record before any final access decision is made regarding the check, subject to the following conditions:

(i) The individual must notify the airport operator or its designee, in writing, within 30 calendar days after being advised that the criminal history record received from the FBI discloses disqualifying information, of his or her intent to correct any information believed to be inaccurate. If no notification is received within 30

calendar days, the airport operator may make a final access decision.

(ii) The individual has one year from the date the airport operator or its designee notified him or her of information that would be disqualifying for unescorted access authority to provide a corrected record received from the FBI before the airport operator may make a final access decision.

(3) Shall notify an individual that a final decision has been made to deny authority for unescorted access.

(k) Any individual authorized to have unescorted access privileges to the areas identified in paragraph (a) of this section who is subsequently convicted of any of the crimes listed in paragraph (b)(2) of this section shall report the conviction and surrender SIDA identification media within 24 hours to the airport operator.

(l) Criminal history record information provided by the FBI shall be used solely for the purposes of this section, and no person shall disseminate the results of a criminal history record check to anyone other than:

(1) The individual to whom the record pertains or that individual's authorized representative;

(2) The airport operator or its authorized representative; or

(3) Others designated by the Administrator.

(m) After completing the investigations required by paragraph (b) of this section, the airport operator shall retain a written record that the investigation was conducted for the individual until 180 days after the termination of the individual's authority for unescorted access. The airport operator or its designee shall dispose of the FBI criminal history record check information in a manner acceptable to the Administrator. The written record shall be correlated to payments for FBI criminal history record checks for specific individuals, and shall include, at a minimum, the following information for each individual:

(1) The date the fingerprints were taken;

(2) The date the fingerprints were sent to the FBI;

(3) The date the criminal history record was received from the FBI;

(4) The date outcome and the date the determination for unescorted access privileges as identified in paragraph (a) of this section was made; and

(5) Any other information as required by the Assistant Administrator for Civil Aviation Security.

(n) Each airport operator shall implement the requirements of paragraph (b) of this section in accordance with the following schedule:

(1) For airports screening at least 25 million persons, or an airport that has been designated by the Assistant Administrator of Civil Aviation Security:

(i) After June 24, 1992, each airport operator shall implement the requirements of paragraph (b) of this section for all individuals who apply for authority to have, or authorize others to have, unescorted access to the areas identified in paragraph (a) of this section.

(ii) By December 31, 1992, each airport operator shall perform the functions required under paragraph (h) of this section for at least 50 percent of the individuals identified in paragraph (a) of this section.

(iii) By June 30, 1993, each airport operator shall perform the functions required under paragraph (h) of this section for all individuals identified in paragraph (a) of this section.

(iv) No later than January 1, 1994, unless otherwise approved by the Administrator in the airport security program, each airport operator shall not authorize any individual to have, or authorize others to have, unescorted access privileges to the areas identified in paragraph (a) of this section unless the individual has been authorized under paragraph (b) of this section.

(2) For all airports except those identified in paragraph (n) (1) of this section:

(i) After June 30, 1993, each airport operator shall implement the requirements of paragraph (b) of this section for all individuals who apply for authority to have, or authorize others to have, unescorted access to the areas identified in paragraph (a) of this section.

(ii) By December 31, 1993, each airport operator shall perform the functions required under paragraph (h) of this section for at least 50 percent of the individuals identified in paragraph (a) of this section.

(iii) By June 30, 1994, each airport operator shall perform the functions required under paragraph (h) of this section for all individuals identified in paragraph (a) of this section.

(iv) After January 1, 1995, unless otherwise approved by the Administrator in the airport security program, each airport operator shall not authorize any individual to have, or authorize others to have, unescorted access privileges to the areas identified in paragraph (a) of this section unless the individual has been authorized under paragraph (b) of this section.

PART 108—[AMENDED]

1. The authority citation for part 108 is revised to read as follows:

Authority: Sec. 101, et seq., Pub. L. 101-604, 104 Stat 3066; 49 U.S.C. 1354, 1356, 1357, 1421, 1424, and 1511; 49 U.S.C. 106(g).

2. Part 108 is amended by adding a new § 108.33 to read as follows:

§ 108.33 Unescorted access privilege

(a) For each employee covered under a certification made to an airport operator pursuant to § 107.31(e), the certificate holder shall ensure that:

(1) The individual has undergone verification of references and employment history for the 5 years preceding the date of the verification; and

(2) The individual's fingerprint and criminal history record maintained by the Federal Bureau of Investigation (FBI) establishes that within the past 10 years, ending on the date that the certificate holder initiates the check, there is no record of the individual's having been convicted in any jurisdiction of any of the following crimes enumerated in section 316 (g) (3) (A) (ii) of the Federal Aviation Act of 1958 (the Act), 49 U.S.C. App. 1357 (g) (3) (A) (ii):

(i) Forgery of certificates, false marking of aircraft, and other aircraft registration violations;

(ii) Interference with air navigation;

(iii) Improper shipment of a hazardous material;

(iv) Aircraft piracy;

(v) Interference with flight crew members or flight attendants;

(vi) Commission of certain crimes aboard aircraft in flight;

(vii) Carrying weapons or explosives aboard aircraft;

(viii) Conveying false information and threats;

(ix) Aircraft piracy outside the special aircraft jurisdiction of the United States;

(x) Lighting violations in connection with transportation of controlled substances;

(xi) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements;

(xii) Destruction of an aircraft or aircraft facility;

(xiii) Murder;

(xiv) Assault with intent to murder;

(xv) Espionage;

(xvi) Sedition;

(xvii) Kidnapping;

(xviii) Treason;

(xix) Rape;

(xx) Unlawful possession, sale, distribution, or manufacture of an explosive or weapon;

(xxi) Extortion;

(xxii) Armed robbery;

(xxiii) Distribution of, or intent to distribute, a controlled substance; or

(xxiv) Conspiracy to commit any of the aforementioned criminal acts.

(b) The certificate holder shall designate an individual to—

(1) Review the results of each criminal history record check and identify any disqualifying convictions; and

(2) Serve as the contact to receive notification from an individual applying for unescorted access of his or her intent to seek correction of his or her criminal history record with the FBI.

(c) The certificate holder may designate an entity to perform the investigation required under paragraph (a)(2) of this section. Prior to commencing any investigation, the certificate holder or its designee shall notify affected individuals of the requirement to undergo a criminal history record check.

(d) The certificate holder or its designee shall collect and process fingerprints in the following manner:

(1) One set of legible and classifiable fingerprints shall be recorded on fingerprint cards approved by the FBI;

(2) The fingerprints shall be obtained from the applicant under direct observation by the certificate holder or its designee;

(3) The identity of the individual must be verified at the time fingerprints are obtained. The individual must present two acceptable forms of identification media, one of which must bear his or her photograph; and

(4) The fingerprint cards shall be forwarded to the Identification Division of the Federal Bureau of Investigation in a manner that protects the confidentiality of the individual's record.

(e) In conducting the criminal history record check required by this section, the certificate holder or its designee shall investigate arrest information for the crimes listed in paragraph (a)(2) of this section, if no disposition has been recorded.

(f) The certificate holder or its designee shall:

(1) At the time the fingerprints are taken, notify the individual that a copy of the criminal history record received from the FBI will be made available if requested in writing.

(2) Prior to making a final decision to deny authorization for unescorted access, advise the individual that the criminal history record received from the FBI discloses information that would disqualify him or her from unescorted access authority and shall provide each affected individual with a copy of his or her record received from the FBI. The individual may contact the FBI to complete or correct the information contained in the record before any final access decision is made regarding the check, subject to the following conditions:

(i) The individual must notify the certificate holder or its designee, in writing, within 30 calendar days after being advised that the criminal history record received from the FBI discloses disqualifying information, of his or her intent to correct any information believed to be inaccurate. If no notification is received within 30 calendar days, the certificate holder may make a final access decision.

(ii) The individual has one year from the date the certificate holder or its designee notified him or her of information that would be disqualifying for unescorted access authority to provide a corrected record received from the FBI before the certificate holder may make a final access decision.

(3) Shall notify an individual that a final decision has been made to deny authority for unescorted access.

(g) Any individual authorized to have unescorted access privileges as identified in paragraph (a) of this section who is subsequently convicted of any of the crimes listed in paragraph (a)(2) of this section shall report the conviction and surrender SIDA identification media within 24 hours to the airport operator.

(h) Criminal history record information provided by the FBI shall be used solely for the purposes of this section, and no person shall disseminate the results of a criminal history record check to anyone other than:

(1) The individual to whom the record pertains or that individual's authorized representative;

(2) The certificate holder or its authorized representative; or

(3) Others designated by the Administrator.

(i) Upon reaching a determination of an individual's eligibility for unescorted access to the areas identified in paragraph (a) of this section, the certificate holder shall retain a written record that the investigation was conducted for the individual until 180 days after the termination of the individual's authority for unescorted access privileges. The certificate holder or its designee shall dispose of the FBI criminal history record check information in a manner acceptable to the Administrator. The written record shall be correlated to payments for FBI criminal history record checks for specific individuals, and shall include, at a minimum, the following information for each individual:

(1) The date the fingerprints were taken;

(2) The date the fingerprints were sent to the FBI;

(3) The date the criminal history record was received from the FBI;

(4) The outcome and the date the determination for unescorted access privileges as identified in paragraph (a) of this section was made; and

(5) Any other information as required by the Assistant Administrator for Civil Aviation Security.

(j) Each certificate holder shall implement these requirements in accordance with the airport operator's schedule in § 107.31(n).

Issued in Washington, DC, on February 10, 1992.

Bruce R. Butterworth,

Director, Office of Civil Aviation Security Policy and Planning, ACP–1.

[FR Doc. 92–3545 Filed 2–11–92; 10:45 am]

BILLING CODE 4910–13–M

Reader Aids

Federal Register

Vol. 57, No. 30

Thursday, February 13, 1992

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202-523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3447
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, FEBRUARY

3909-4146.....3
4147-4356.....4
4357-4542.....5
4543-4690.....6
4691-4834.....7
4835-4924.....10
4925-5050.....11
5051-5226.....12
5227-5364.....13

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
August 31, 1917
(Revoked in part by PLO 6922).....4856
12789.....5225
Proclamations:
6402.....4833

7 CFR

1.....3909
271.....3909
278.....3909, 3913
279.....3909
907.....3916, 4691, 4835
916.....3918
918.....4147
944.....4148
1007.....3920
1065.....4150, 4151
1413.....3921
1421.....4553
1710.....4513
1940.....3922
1942.....4357
1980.....4336, 4358
Proposed Rules:
273.....3961, 4793
319.....3963
703.....4164, 4378
959.....4164
998.....3965

8 CFR

103.....3925, 5227
245a.....3925

9 CFR

75.....5210
78.....3926
105.....5210
Proposed Rules:
92.....5294

10 CFR

2.....4152
15.....4152
54.....4912
Proposed Rules:
Ch. I.....4166
100.....4168
170.....4744
171.....4744

12 CFR

335.....4699
Ch. XV.....4715
Proposed Rules:
Ch. V.....5080
615.....5294

13 CFR

121.....4837, 4839

14 CFR

39.....3927-3936, 4153, 4842, 4848, 4925, 5051
97.....4360, 4361
1214.....4544
1203b.....4926
1212.....4928
Proposed Rules:
Ch. I.....4744
39.....3966, 5081, 5099
71.....4168, 4589
91.....4352
107.....5352
108.....5352
135.....4352
Ch. II.....4744
Ch. III.....4744

15 CFR

29b.....4715
768.....4553
770.....4553
771.....4553
772.....4553
773.....4553
774.....4553
775.....4553
776.....4553
777.....4553
778.....4553
779.....4553
785.....4553
786.....4553
790.....4553
791.....4553
799.....4553
1201.....4154

16 CFR

600.....4935

17 CFR

146.....4363
Proposed Rules:
30.....5239
32.....5239

18 CFR

157.....4716
271.....4852, 4853
Proposed Rules:
271.....5240

19 CFR

10.....4793, 4936
101.....4717
Proposed Rules:
24.....4589

113.....4589
142.....4589

20 CFR

209.....4364
259.....4365
404.....3937

21 CFR

177.....3938, 5294
510.....5052
520.....4718, 5052
522.....5052, 5295
556.....5052
558.....5052-5210
720.....5210

Proposed Rules:

Ch. I.....5241
10.....5048
12.....5048
16.....5048
20.....5048
500.....5048
510.....5048
511.....5048
514.....5048

23 CFR

Proposed Rules:

Ch. I.....4744
Ch. II.....4744
Ch. III.....4744
625.....4941

24 CFR

888.....4156
905.....4282
990.....4282
3280.....3941

Proposed Rules:

0.....3967
570.....3970, 3971

26 CFR

1.....4719, 4913, 5054
20.....4250
25.....4250
301.....4250, 4937
602.....5054

Proposed Rules:

1.....4913, 4942, 5101, 5122
25.....4278

27 CFR

Proposed Rules:

9.....4942

28 CFR

Proposed Rules:

16.....3974

29 CFR

102.....4157
1627.....4158
2619.....5048

Proposed Rules:

1910.....4858

30 CFR

Proposed Rules:

795.....3975
816.....4085
817.....4085
870.....3975
872.....3975
873.....3975
874.....3975
875.....3975
876.....3975
886.....3975

32 CFR

340.....4853
706.....4854, 4855, 4938
720.....5228
751.....5054
757.....5072

Proposed Rules:

335.....5122
505.....4387
750.....4721
756.....4735

33 CFR

165.....5077

Proposed Rules:

Ch. I.....4744
Ch. IV.....4744
165.....4366

36 CFR

7.....4574

Proposed Rules:

7.....4592
62.....4592

38 CFR

14.....4088
17.....4367
19.....4088
20.....4088

Proposed Rules:

1.....3975
19.....4131
20.....4131

40 CFR

1.....5320
3.....5320
17.....5320
22.....4316, 5320
27.....5320
51.....3941
52.....3941, 3946, 4158, 4367
57.....5320
60.....5320
62.....4737
66.....5320
85.....5320
86.....5320
114.....5320
123.....5320
124.....5320
164.....5320
180.....4368
209.....5320
222.....5320
223.....5320
233.....5320
271.....4370, 4371, 4738
272.....4161
403.....5320
721.....4576

Proposed Rules:

52.....3976, 3978
75.....4169
80.....3980
156.....4390
268.....4170
300.....4824
704.....4177
799.....4177

41 CFR

101-26.....3949
101-38.....4373

42 CFR

Proposed Rules:

418.....4516
440.....4085, 4516
441.....4085, 4516
482.....4516
483.....4516
488.....4516

43 CFR

Proposed Rules:

3180.....4177

Public Land Orders:

3160.....5211
6919.....5211
6921.....4144
6922.....4856

45 CFR

235.....5048
Ch. XXV.....5298

46 CFR

515.....4578
560.....4578
572.....4578
580.....3950
581.....3950
583.....3950

Proposed Rules:

Ch. I.....4744
Ch. II.....4744
Ch. III.....4744

47 CFR

64.....4373, 4740
69.....4856
73.....3951, 3952, 4163, 4857

Proposed Rules:

63.....4391
73.....3982, 4179, 4180, 4859
74.....4592
90.....4180

48 CFR

211.....4741
252.....4741
570.....4939
701.....5234
705.....5234
706.....5234
731.....5234
749.....5234
752.....5234
1816.....4912

Proposed Rules:

31.....4181
Ch. 12.....4744

49 CFR

571.....4086
572.....4086
1121.....5237

Proposed Rules:

Subtitle A.....4744
567.....3983
568.....3983
571.....4594
Ch. I.....4744
1035.....5123
1141.....4594
Ch. II.....4744
Ch. III.....4744
Ch. IV.....4744
Ch. V.....4744
Ch. VI.....4744

50 CFR

611.....3952
620.....5078
625.....4248
642.....4376
650.....4377
657.....5238
672.....3960, 4085, 4939
675.....3952, 4085, 5238

Proposal Rules:

17.....4745, 4747, 4912

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List February 12, 1992

Public Laws

102d Congress, 2nd Session, 1992

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 102d Congress, 2nd Session, 1992.

(Individual laws also may be purchased from the Superintendent of Documents, Washington, DC 20402-9328. Prices vary. See Reader Aids Section of the Federal Register for announcements of newly enacted laws and prices).

Superintendent of Documents **Subscriptions** Order Form

Order Processing Code:
* 6216

S3

☐ **YES**, enter my subscription(s) as follows:

Charge your order. It's Easy!

To fax your orders (202) 512-2233

_____ subscriptions to **PUBLIC LAWS** for the 102d Congress, 2nd Session, 1992 for $119 per subscription.

The total cost of my order is $_____. International customers please add 25%. Prices include regular domestic postage and handling and are subject to change.

(Company or Personal Name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

(Daytime phone including area code)

(Purchase Order No.)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐-☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

(Authorizing Signature) (1/92)

Mail To: New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

Microfiche Editions Available...

Federal Register

The Federal Register is published daily in 24x microfiche format and mailed to subscribers the following day via first class mail. As part of a microfiche Federal Register subscription, the LSA (List of CFR Sections Affected) and the Cumulative Federal Register Index are mailed monthly.

Code of Federal Regulations

The Code of Federal Regulations, comprising approximately 196 volumes and revised at least once a year on a quarterly basis, is published in 24x microfiche format and the current year's volumes are mailed to subscribers as issued.

Microfiche Subscription Prices:

Federal Register:

One year: $195
Six months: $97.50

Code of Federal Regulations:

Current year (as issued): $188

Superintendent of Documents Subscriptions Order Form

Order Processing Code:
*** 6462**

Charge your order. It's easy!

Charge orders may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays)

☐ **YES,** please send me the following indicated subscriptions:

24x MICROFICHE FORMAT:

____ **Federal Register:** ____ One year: $195 ____ Six months: $97.50

____ **Code of Federal Regulations:** ____ Current year: $188

1. The total cost of my order is $_____ . All prices include regular domestic postage and handling and are subject to change. International customers please add 25%.

Please Type or Print

2. _____
(Company or personal name)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

(_____) _____
(Daytime phone including area code)

3. Please choose method of payment:

☐ Check payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐-☐
☐ VISA or MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

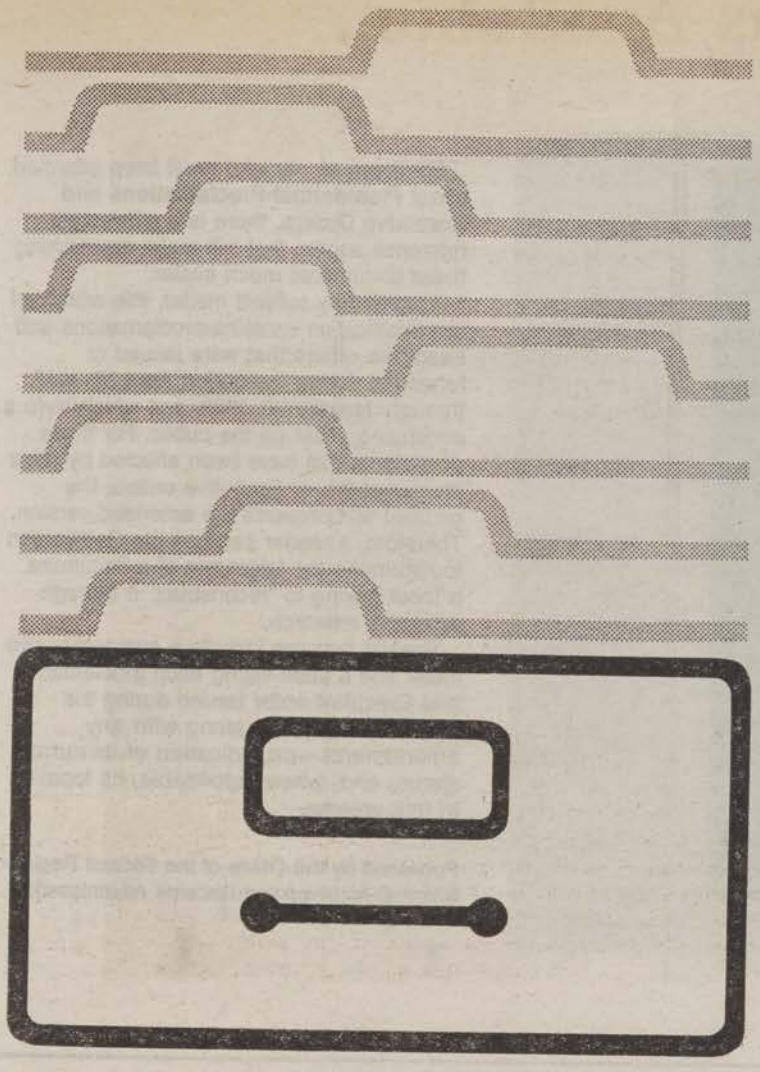
_____
(Credit card expiration date)

Thank you for your order!

_____ _____
(Signature)

4. Mail To: Superintendent of Documents, Government Printing Office, Washington, D.C. 20402-9371 **(Rev. 2/90)**

cel



Guide to Record Retention Requirements

in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1989
SUPPLEMENT: Revised January 1, 1991

The GUIDE and the SUPPLEMENT should be used together. This useful reference tool, compiled from agency regulations, is designed to assist anyone with Federal recordkeeping obligations.

The various abstracts in the GUIDE tell the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

The GUIDE is formatted and numbered to parallel the CODE OF FEDERAL REGULATIONS (CFR) for uniformity of citation and easy reference to the source document.

Compiled by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents **Publications** Order Form

Order Processing Code:
* **6788**

P3

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512-2250

☐ **YES**, please send me the following:

_____copies of the 1989 GUIDE TO RECORD RETENTION REQUIREMENTS IN THE CFR S/N 069-000-00020-7 at $12.00 each.

_____copies of the 1991 SUPPLEMENT TO THE GUIDE, S/N 069-000-00038-0 at $1.50 each.

The total cost of my order is $_____. International customers please add 25%. Prices include regular domestic postage and handling and are subject to change.

(Company or Personal Name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

(Daytime phone including area code)

(Purchase Order No.)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐-☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

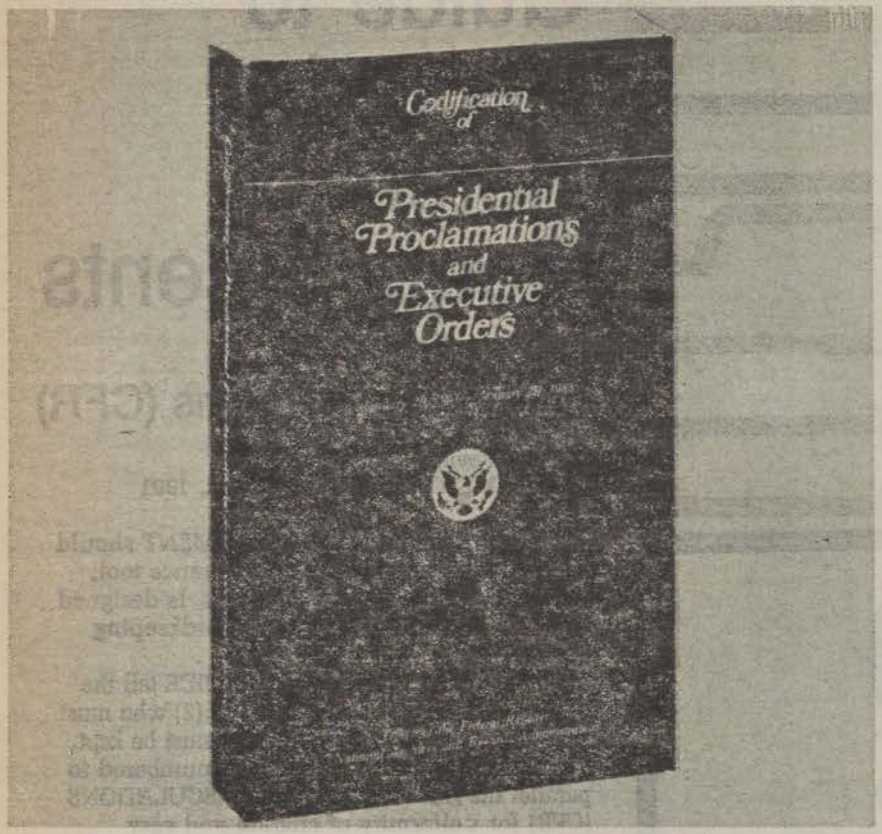
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

(Authorizing Signature) (12/91)

Mail To: New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

.... Order now ! , , , ,



For those of you who must keep informed about **Presidential Proclamations and Executive Orders,** there is a convenient reference source that will make researching these documents much easier.

Arranged by subject matter, this edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period April 13, 1945, through January 20, 1989, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

Special features include a comprehensive index and a table listing each proclamation and Executive order issued during the 1945–1989 period—along with any amendments—an indication of its current status, and, where applicable, its location in this volume.

Published by the Office of the Federal Register, National Archives and Records Administration

---

Superintendent of Documents **Publications** Order Form

P3

Order processing code:
* **6661**

Charge your order. It's Easy!

To fax your orders (202)–512–2250

☐ **YES**, please send me the following:

_____ copies of CODIFICATION OF PRESIDENTIAL PROCLAMATIONS AND EXECUTIVE ORDERS.
S/N 069-000-00018-5 at $32.00 each.

The total cost of my order is $_____. International customers please add 25%. Prices include regular domestic postage and handling and are subject to change.

(Company or Personal Name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

(Daytime phone including area code)

(Purchase Order No.)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

(Authorizing Signature) (12/91)

Mail To: New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954